



2013 ANNUAL REPORT

OFFICE OF THE
SAN DIEGO CITY ATTORNEY



[The Office of the City Attorney](#) is among the region's largest law firms and handles a diverse caseload. The Office of the City Attorney

advises the Mayor, the City Council, and all city departments and prosecutes or defends lawsuits or cases to which the City may be a party. The City Attorney's Office also serves as the City prosecutor for persons charged with violations of state and local laws occurring within the city's jurisdiction for misdemeanor offenses.



Our Mission Statement:

Integrity matters! We can best help our city by maintaining our integrity, providing timely, accurate and high quality legal representation to the City of San Diego. We will be firm, independent and professional, stopping illegalities while suggesting solutions. We will never forget that we are accountable to the people of San Diego and that we represent the City of San Diego.

Message from City Attorney Jan Goldsmith:

I am pleased to present the 2013 Annual Report of the San Diego City Attorney's Office.

This past year marked significant challenges for the City of San Diego. Despite the problems, San Diego is in pretty good shape. We've got a structurally balanced budget, five-year MOUs with our six labor unions, and pension reform. As a City, we are doing pretty well. We took a strategy to get our problems resolved and now we're moving on.

Our Civil Advisory Division assisted in the successful negotiation of a settlement of claims for underpaid refuse collection franchise fees, AB 939 fees, and associated penalties. The City realized more than \$2,000,000 in revenue as a result.

Our Civil Litigation Division received national attention when a judgment was obtained for \$80,500,000 against lead paint manufacturers in a case finding that San Diego lead paint



companies should pay for further abatement of lead based paint in San Diego's homes built before 1978.

Of the many challenges facing my office, from budget cuts to difficult decisions about cases to evaluating laws that help shape the future of San Diego, I am pleased that we continue to have a strong Code Enforcement Unit despite significant budget cuts. Our Code Enforcement Unit is a cornerstone of the City of San Diego's ongoing efforts to improve the quality of life of all its residents. The Drug Abatement Response Team (DART) is an essential component of our strategy to enhance the lives of residents and enable them to enjoy the fruits of hard work that typifies San Diegans. DART provides a clear means so that our city can get rid of drug dens and public nuisances that infect communities and compromise quality of life.



To be more responsive to the changing criminal justice system, and to best serve the citizens of San Diego, the Criminal Division of the City Attorney's Office seeks to more widely implement community prosecution principles across broader categories of criminal activity through the expansion of community courts and

the expansion of the Neighborhood Prosecution Unit to more neighborhoods of the City of San Diego. The new community courts will be designed to reduce recidivism, conserve limited court resources, and have a significant positive impact on the community. We will also establish performance measures so the impact of the program can be gauged over time.

A few highlights from our Consumer & Environmental Protection Unit for 2013 include:

People v. Rite Aid Corporation was a civil case brought by the City Attorney and 52 other prosecutors' offices in California to redress the illegal disposal of hazardous wastes at Right Aid stores in the state. The company paid penalties, costs, and other monetary relief totaling \$12,324,000 and was ordered to implement a program to prevent future illegal disposals of hazardous waste.

People v. Fresh & Easy Neighborhood Market, Inc. was a civil case against a grocery chain for charging consumers more at the time of checkout than the currently advertised lowest price and for false advertising. The company paid



\$833,137 costs and penalties and is required to maintain a program for 3 years to take \$3 off the lowest advertised price of any item when the store overcharges for it at the time of checkout.

People v. Best Buy Stores, LP was a civil case against an electronics retailer for charging consumers more at the time of checkout than the currently advertised lowest price and for false advertising. The company paid \$875,370 costs and penalties and is required for 5 years to give consumers \$3 off the lowest price of an item when they are overcharged.



Looking Ahead in 2014:

2014 will be an exciting year. We will be working on the City Charter reform. Our City Charter contains provisions that are ambiguous, outdated and incomplete. In addition, key governance issues are not addressed in the City Charter. For example, there is no express provision setting forth authority and responsibility regarding labor negotiations. Nor, is there a provision that addresses incapacity of the Mayor or City Attorney. The appointment process for commissions and boards is incomplete and the elections process is inconsistent with portions of state law. As a result, our office is often faced with interpreting City Charter provisions without clear language in the Charter.

I believe a complete Charter review is needed. After all, this is our local Constitution, the highest law in our City.

Sincerely,

Jan Goldsmith

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The Office of the San Diego City Attorney is structured like a private law firm model and has been serving the needs of representation for the City. The office is divided into [four divisions](#): Civil Advisory, Civil Litigation, Criminal and Community Justice. These divisions are subdivided into units and sections which allow the attorneys to specialize in areas of practice.



[Civil Advisory Division](#): The Civil Advisory Division provides advice to the City and each of its departments, including the City Council and Mayor. The Civil Advisory Division is divided into six sections: Economic Development, Government Affairs and Finance, Public Works, Public Services, Public Safety and Employment Services, and Real Property and Land Use. This division is under the direction of Assistant City Attorney Mary Jo Lanzafame who has over 27 years of experience as a municipal lawyer in areas of practice including the California Environmental Quality Act (CEQA), planning and zoning, conflict of interest, the Brown Act, real estate and public works.

[Economic Development Section](#)



The five attorneys in the Economic Development Section provide legal advice to the City and the Successor Agency to the former Redevelopment Agency of the City of San Diego on a variety of legal issues related to local economic development programs and post-redevelopment matters. The lawyers prepare legal memoranda, reports, and resolutions, and draft,

negotiate and review sophisticated contracts and documents.

The Economic Development attorneys advise City staff on post-redevelopment issues arising from the complex statutory scheme that dissolved redevelopment agencies as of February 2012. The attorneys advise the City as Successor Agency and the City as Housing Successor, attend meetings of the Oversight Board, and work with staff to protect and preserve public assets and projects, such as the North Embarcadero Visionary Plan, the development of an urban park for community-serving uses adjacent to the Horton Plaza Retail Center, and numerous affordable housing projects.

The Economic Development attorneys also assist staff with the creation and funding of assessment districts, including Maintenance Assessment Districts (MADs), Business Improvement Districts (BIDs), and the Tourism Marketing District (TMD). Further, they assist City staff with issues and agreements involving Community Development Block Grant (CDBG) and Transient Occupancy Tax (TOT) funds and Community Parking Districts. The attorneys advise staff regarding the San Diego Workforce Partnership, the International Affairs Board, the City's Storefront Improvement Program, the Small Business Enhancement Program, the San Diego Regional Enterprise Zone, and the Foreign-Trade Zone, in support of the City's goal of increasing economic development.

The following is a summary of many highlights related to projects and issues addressed by the Economic Development attorneys during 2013:

Assessment Districts and Parking Districts

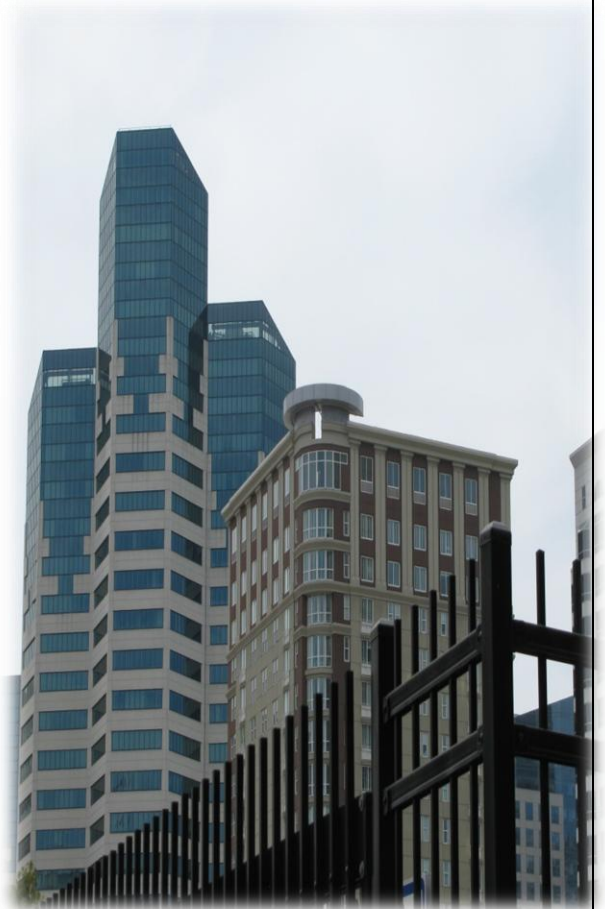
- Assisted with the ongoing operation of 57 MADs and 20 BIDs throughout the City, as well as the Downtown Property-Based Improvement District, including the annual renewal process in which City Council authorizes the levying of assessments within the districts for the purpose of providing services therein.
- Drafted, reviewed, and approved agreements to provide services within the City's MADs and BIDs, and advised City staff regarding compliance with federal, state, and local laws in addition to the City's internal policies and procedures.
- Advised City staff with respect to the successful formation of the first MAD in the Barrio Logan neighborhood, which provides funding for the ongoing maintenance, operation and servicing of landscaping, sidewalks and gutters, trash removal, graffiti abatement and other improvements within the public rights-of-way.



- Advised staff concerning various legal issues associated with the renewal of the TMD in downtown San Diego for 39.5 years until 2053. The TMD is expected to raise approximately \$30 million per year for tourism development, including coordinated joint marketing and promotion of San Diego, in order to retain and expand the tourism industry – one of the largest revenue generators for the San Diego economy and a key employment sector.
- Drafted numerous documents and provided legal advice in obtaining approval of the FY 2014 annual plans and budgets for the City's six Community Parking Districts.

Incentive and Financial Subsidy Programs

- Advised and assisted staff with the drafting and negotiation of contracts to maintain the City's offering of business incentives and benefits through tax credits and deferral or exemption of duties on imported and exported goods within the San Diego Regional Enterprise Zone and the City's Foreign-Trade Zone.
- Advised staff regarding the legal implications and requirements associated with the elimination of enterprise zones on a statewide basis as a result of Assembly Bill 93, which became effective on January 1, 2014.
- Provided legal advice related to contracting and administration of the City's business incentives programs that offer benefits such as permit assistance, tax incentives, fee reductions, and financing. The City programs include the Small Business Enhancement Program, Storefront Improvement Program, and Small Business Loans.
- Drafted, reviewed, and approved agreements to facilitate execution of the City's Economic Development and Tourism Support Program, which promotes the City as a visitor destination and advances the City's economy by increasing tourism and attracting industry. Through this program, a total of \$540,000 was made available to fifteen small businesses for FY 2013 and \$570,000 was made available to eighteen small businesses for FY 2014.
- Assisted with the drafting of numerous documents and provided legal advice in obtaining approval of the FY 2014 Consolidated Plan for CDBG and other federal funding sources and in complying with the Ralph M. Brown Act regarding the Consolidated Plan Advisory Board.



Post-Redevelopment Activities

- Assisted the City, as Successor Agency, in complying with State laws, including Assembly Bills x1 26 and 1484, related to the winding down of redevelopment operations and the fulfillment of existing contractual and financial obligations.
- Advised the Successor Agency and the City with respect to the impact of new State laws, including Assembly Bills 440 and 562 and Senate Bills 341, 470 and 684, that refined certain aspects of the redevelopment dissolution process and addressed post-redevelopment issues related to affordable housing and economic development.
- Assisted staff in drafting the City's response to the San Diego County Grand Jury report that commended the Successor Agency's early efforts in winding down redevelopment operations and suggested ways to streamline that process.
- Provided legal advice and prepared and evaluated numerous documents with respect to the proposed Long-Range Property Management Plan, which describes the intended use or disposition of each real property asset currently owned by the Successor Agency, including the potential disposition of many properties to the City for governmental use and future redevelopment.
- Facilitated the completion of numerous documents and the resolution of complex issues related to the future development of an urban park that will feature community-serving uses and retail pavilions at a prominent downtown location on Broadway Avenue next to the Horton Plaza Retail Center.
- Provided legal advice and transactional support related to the continued redevelopment of the former Naval Training Center, now known as Liberty Station. Recent transactions have allowed for rehabilitation of additional buildings in the Civic, Arts, and Cultural Center in Liberty Station, and for the lease of those buildings by various tenants. One new tenant, Stone Brewing Co., opened a successful new brewery and restaurant in 2013.
- Drafted documents and provided legal advice related to the proposed Rad Lab Project involving a creative concept for short-term use of City-owned land for outdoor activity and retail indoor space using retrofitted shipping containers.
- Provided legal advice and transactional support related to the Gaslamp Hotel project, which is anticipated to include the 317-unit Montage hotel, with ground floor retail space, meeting rooms and a ballroom, and underground parking.
- Negotiated and drafted numerous documents and provided legal advice regarding the modification of use for two buildings on Successor Agency properties in the East Village District, known as Candy Factory and Legend, to achieve flexibility in leasing options for the ground-floor spaces.

- Assisted staff in obtaining authorization from the Oversight Board and the State to allow multiple community events to be held on vacant Successor Agency properties, and drafted right of entry agreements for the events.

Affordable Housing

- Provided legal advice on the creation of the Council-approved Affordable Housing Master Plan, which outlines priorities and strategies for effective use of the City's housing assets toward the production of affordable housing.
- Negotiated and drafted numerous documents, and provided legal advice related to, two large-scale affordable housing projects to be subsidized by the City's affordable housing funds. The two projects, both approved by City Council in 2013, include: (a) Alpha Square, which will feature a 6-story residential mixed-use building with approximately 203 affordable rental units (76 of which will be supportive housing units for the homeless and special needs population), ground floor retail space, and underground parking; and (b) Atmosphere, which will feature a 12-story apartment building with approximately 202 affordable rental units (43 of which will be supportive housing for the homeless and special needs population), ground floor retail space, and underground parking.



- Negotiated and drafted numerous documents, and provided legal advice related to, the closing of two large-scale affordable housing projects subsidized by local affordable housing funds. The two projects, both currently under construction, include: (a) Celadon at Ninth and Broadway in downtown San Diego, which will

include a 17-story apartment building with 250 affordable rental units (88 of which will be supportive housing for the homeless and special needs population), ground floor retail space, and underground parking; and (b) the COMM22 project in the Logan Heights neighborhood, which will include 197 affordable units for family and senior rental housing, a child care facility, community-serving commercial and retail space, underground parking, market rate lofts, office space, and associated infrastructure and streetscape improvements.

- Provided legal advice and transactional support related to the refinance of numerous affordable housing units, including multi-unit affordable housing projects funded in part by the former Redevelopment Agency (such as the Horton Fourth Avenue project) and individual homes purchased with the aid of a homebuyer assistance program facilitated by local agencies.
- Assisted with the documentation and negotiation of new affordable housing projects that are expected to proceed for City Council's approval in 2014, including Phase V of the Veterans Village of San Diego campus, which will provide 20 additional beds for low-income female veterans of the Iraq and Afghanistan wars.

Government Affairs and Finance Section

The section consists of seven full-time attorneys providing advice and legal support to the Council, Mayor's Office, City Clerk, Independent Budget Analyst, City Auditor, Treasurer, Financial Management, Library, Commission on Arts and Culture, Redistricting Commission, Funds Commission, Civil Service Commission, Salary Setting Commission, Council Committee on Economic Development and Intergovernmental Relations (former Rules & Economic



Development Committee), Council Committee on Budget and Government Efficiency, Audit Committee, and the Ethics Commission on core municipal governance issues and on municipal finance, under the supervision of Chief Deputy City Attorney Prescilla Dugard.

Highlights of 2013

The Government Affairs team provides support on core municipal functions relating to the City Charter, San Diego Municipal Code, Mayor-Council form of governance, open meeting laws, public records, record retention, ethics and conflicts of interest, boards and commissions, taxes, corporate partnerships, contracts, and elections.

Office of the Mayor: Section attorneys provided extensive and timely legal research and analysis to the City Attorney and City Council as events unfolded impacting the former Mayor. This legal research and analysis resulted in Memoranda of Law explaining the legal repercussions and options available to the City in this time of crisis, including the requirements for forfeiture of office under the City's Charter. After the Mayor's resignation, this section provided legal advice and analysis to the City Council including an overview of the role of the Council President during the vacancy in the Office of the Mayor and analysis of specific circumstances as they arose.

City Council: Section attorneys drafted ordinances to ensure equal representation on Boards and Commissions for the City's new Ninth Council District and provided advice and support on amendments to the Permanent Rules of Council related to the restructuring of the standing committees of the Council.

Elections: One of the section's primary functions is to provide legal work and advice to the City Clerk regarding all issues related to municipal elections. In 2013, the section provided support on multiple special elections, including the special election to fill the vacancy in the District 4 Council seat, after the Council President resigned, providing analysis of constitutional law issues implicated by filling a vacancy in a seat after a Redistricting Commission process had occurred mid-term. The section then provided unprecedented and controversial legal work related to the two pending recall petitions against former Mayor Filner, including analysis of unique constitutional and conflict of law issues implicated by multiple recall efforts proceeding at the same time, and outdated ordinances that conflicted with state law. The section then provided legal support on the special election for Mayor, to fill the seat vacated by Mr. Filner. Finally, the section provided advice and support on multiple referendum petitions filed related to Barrio Logan Community Plan update, and the Council's handling of those petitions for an upcoming ballot.



San Diego Public Library: The section provided legal support to the City's Library Department before and after the opening of the new Central Library for necessary contracts related to printers and copiers, internet access, parking, security, mental health services, and other operational issues, grant agreements, and the revision of policies and fees for special event space at

the new library.

Comptroller and Corporate Streamlining: Section attorneys began working with the Office of the City Comptroller to streamline city-owned corporate entities, dissolving those that are inactive but sources of ongoing expenses to the City in the form of required annual filings and idle corporate assets. One such entity, San Diego Civic Events Fund, was dissolved and its assets distributed to the City's General Fund. Additional inactive entities are currently in various stages of the cumbersome dissolution process.

Convention Center Expansion:

The Convention Center Expansion project continued through 2013. Section attorneys provided legal advice to City staff working closely with the San Diego Unified Port District to present the Phase III Convention Center Expansion to the California Coastal Commission for its approval. This work included negotiations to resolve issues raised by Coastal Commission staff, resulting in approval of the Port Master Plan



Amendment that includes the Phase III Expansion. This section provided advice and support for defense of the action filed by the City for validation of the Convention Center Facilities District, currently on appeal after a favorable ruling from the trial court. This section continues to advise and support negotiations of agreements necessary for the construction, management, and operation of Phase III.

Corporate Partnership: After assisting in the proposal and evaluation process for the selection of a corporate bike sharing partner, this year the section worked closely with the corporate partnership program for the negotiation and drafting of the agreement between the City and its corporate partner for the implementation of an extensive bike sharing program in the City of San Diego. Section attorneys assisted in the coordination of legal issues across several City departments, and provided support during the City Council's review and approval of the contract. The section continues to advise the department on legal issues during implementation of the program.

City Auditor: The section worked closely with the Office of the City Auditor to appropriately identify and characterize issues of concern arising from the Managed Competition for Publishing Services which was presented to Audit Committee and City Council and will likely result in improvements in how the City handles managed competition in the future.

City Treasurer: The section negotiated a citywide banking services contracts totaling \$5.75 million over a 5-year contract term with two contractors: Bank of America, which was selected to service the City's Core Banking requirements (including Depository, Disbursement, Reconciliation and Reporting Services), Payroll Automated Clearing House (for Electronic Direct Deposit Payroll Services) and Procurement Card needs, and Citibank, which was selected to provide Security Clearance and Safekeeping Services for the City's Pooled Investments and Bond Construction Funds. The City is projected to realize annual savings of approximately \$410,000 over the 5-year contract term; an estimated rebate for purchases made through the Procurement Card program of \$117,000 annually; and a one-time loyalty credit of \$150,000. In addition, section attorneys worked with the City Treasurer on contracts to allow the City to immediately go live with the use of electronic billing for rental unit business tax in January 2014 which will save the City on postage and other costs.

Special Events: The section provided support to the City's special events program, analyzing legal issues and working closely with City staff and our litigation unit to successfully resolve a lawsuit attempting to keep the annual Over The Line (OTL) event from being held based on alleged violations of the California Environmental Quality Act (CEQA). Consistent with legal advice from our office, the OTL Special Event Permit was issued in full compliance with CEQA so that this iconic 60-year old San Diego event could proceed as originally planned.

Public Finance, Securities and Disclosure Group

The Finance team provides legal opinions with respect to the issuance of new debt and the City's continuing disclosure obligations. The City also has a variety of related entities, such as the Housing Authority and the special tax and assessment districts, which issue debt publicly and are advised by the section. As the City's primary legal advisors with respect to debt obligations, the section serves as general counsel to a number of City financing entities such as the Public Facilities Financing Authority (PFFA), the Tobacco Settlement Revenue Corporation and the Convention Center Expansion Financing Authority.

The primary vehicle for review of City disclosure documents and discussion regarding City disclosure obligations is the Disclosure Practices Working Group (DPWG). This group, consisting of the Chief Operating Officer, the Chief Financial Officer, the Director of Debt Management,

the City's outside disclosure counsel and two deputy city attorneys, is coordinated by the section.

Debt Issues: 2013 was a busy year for debt issuances. The City issued approximately \$50 million in new money and refunding bonds for capital improvements. For the first time since 1979, the City did not issue City a Tax and Revenue Anticipation Note. This was accomplished due to the City's improving reserve position and new legal research by the section that indicated a cash flow borrowing was unnecessary. The City also refunded approximately \$15.8 million in special tax bonds on behalf of Community Facilities District No. 3 (Liberty Station) and approximately \$3.8 million in assessment bonds on behalf of Assessment District No. 4096 (Piper Ranch). The section also served as issuer's counsel on various multifamily housing revenue bonds issued by the San Diego Housing Authority with an aggregate total issue size of approximately \$81 million.

Disclosure Issues: The dissolution of the Redevelopment Agency (RDA) continues to raise disclosure issues for the City and the section. The section has worked closely with DPWG, Civic San Diego and other attorneys in the City Attorney's office in crafting appropriate disclosures for the City's audited financial statements and offering documents. Continuing disclosure obligations for tax allocation bonds issued by the RDA will continue to be a challenge as the state no longer recognizes the tax increment pledged to repay such bonds.

City Council and Staff Training: The section, in conjunction with the City's outside disclosure counsel and Department of Debt Management, provided separate, tailored trainings on federal securities law requirements the City Council and City financial staff. This training is provided biennially.

[Public Services Section](#)

The Public Services Section consists of eight attorneys offering legal advice on public services such as water, sewer, trash collection and recycling, and other support services such as energy efficiency, regulatory compliance, and the purchasing of supplies and equipment. This section advises the departments of Transportation and Storm Water, Environmental Services, Information Technology, Purchasing and Contracting, Equal Opportunity Contracting, the Office of Multimedia Services (City TV), and the Office of ADA Compliance and Accessibility.

2013 Accomplishments

- Assisted in the successful negotiation of a settlement of claims for underpaid refuse collection franchise fees, AB 939 fees, and associated penalties. The City realized more than \$2,000,000 in revenue as a result.
- Assisted Civil Litigation in the defense of a class action lawsuit alleging the City's trash container fee violated Propositions 218 and 26, and the Peoples' Ordinance. Mediation resulted in a settlement that included no costs to the City. The Court ultimately dismissed the case based primarily on the legal analysis performed by this section before the City enacted the fee in 2007 and the Proposition 26 analysis provided by this section while the case was pending. The City would have spent approximately \$30,000,000 over the next 10 years if it had lost this case, as it have continued to provide free trash containers to City residents and it would have been required to replace all automated trash containers.
- Advising the City Comptroller and City Clerk over a several year period concerning the winding up and dissolution of the San Diego Data Processing Corporation and drafting related memoranda and agreements. Advice concerned complex insurance, liability, transition, and records retention and transfer issues, as well as frequent status reports to the Budget and Finance Committee and City Council.
- Advised the Office of Multimedia Services on matters pertaining to the upcoming Balboa Park Centennial. This work included negotiations with AT&T related to installation of fiber in Balboa Park and related work for installation of video cameras in Park; drafting a co-production agreement for use with content produced with non-profit for Centennial; and advising various departments on the potential use of sponsorships on CityTV.
- Preparation of a time-sensitive report regarding the failure of Time Warner to carry Fox Sports Channel (and Padres games) and a letter to the FCC regarding this failure and testimony at a widely-publicized Rules Committee hearing.



- Succeeded in preventing a City vendor from unauthorized use of the City seal on its website and applications.
- Drafted the City's comments to the FCC regarding the FCC's plan for 800 MHZ public safety spectrum in the border region.
- Assisted in the implementation of the City's electronic procurement system.
- Assisted staff with complex legal issues concerning the construction and funding of the New Central Library.
- Assisted in negotiations with the Police Department, the Communications Division, and Sprint to resolve issues associated with wireless coverage for the Police Department. This included negotiating a cure period, exploring viable alternatives, attending numerous Council Committee meetings, and drafting the Amendment to the Sprint Contract which was ultimately approved by Council.
- Reinstated the Office's Contracts Practice Group. Monthly meetings consist of formal and informal presentations, round-table issues, and discussions about issues affecting other California municipalities.
- Worked with staff to achieve unanimous approval for the Storm Water Master Maintenance Program permit at the Coastal Commission by participating in negotiations with Coastal Commission staff, drafting comment letters, and speaking on the City's behalf at the hearing to successfully refute legal arguments by opposing counsel.
- Drafting the mediation brief and leading a mediation effort that resulted in the settlement of the Master Maintenance Program in a CEQA lawsuit.
- Assisting staff with MS4 permit adoption proceedings before the Regional Water Quality Control Board by participating in strategy development, negotiating with the Regional Board staff, drafting portions of a 200-page comment letter, speaking for the City at the hearing, and preparing a petition to the State Water Board regarding the MS4 permit, from which several of our arguments were adopted by other jurisdictions.
- DCA Heather Stroud served as a panelist at a symposium hosted by the California Storm Water Quality Association, a state-wide storm water policy group of which the City is a

member. The workshop addressed the regulatory challenges of maintaining a MS4 system that is also a water of the U.S. under the Clean Water Act.

- DCA Heather Stroud also attended the State Water Board workshop in Sacramento, where she discussed the receiving water limitations provisions in the San Diego MS4 Permit with participants.
- Successfully litigated a gas and electric rate case at the CPUC leading to a denial of SDG&E's proposed "Network Use Charge" on distribution customers, thereby protecting the City's substantial solar investments.
- Successfully settled a rate schedule reclassification which will save the City's water and wastewater operations \$4 million per year in energy expenses for the next four years.
- Represented the City in the Campbell Shipyard mediated settlement with the RWQCB, which ultimately reduced the overall cleanup cost from \$120 million to \$75 million and is expected to save the City \$9 million.



- Provided legal guidance on all aspects of a \$4 million canyon storm channel project through to a site development permit, including environmental appeals, an insurance claim against AIG, funding for design, permitting and planned construction, and defending the City against HOA complaints.
- Negotiated and drafted a new agreement with Fortistar to provide upgrades at the MBC Cogeneration Facility, which will further protect the City's sludge plant from electrical interruptions, help avoid sewer spills, and provide revenue to the City from renewable electricity sales.
- Continuing with administration of the Fortistar contracts, which will save the City approximately \$4 million or more in electrical expenses each year through 2026.
- Completed financing with grants, loans, and bonds for the \$16 million Citywide street light replacement project, which included assisting with the RFP and bid protests and

advising on the contract, resulting in energy savings to the City and a projected \$700,000 net positive cash flow to the General Fund each year after 2013, while mitigating environmental impacts through energy conservation.

- Handling several contracts for the development of the City-owned North City Cogeneration Project, which will provide the City with increased energy independence, help the environment with beneficial use of waste gas, and earn the City revenue of about \$300,000 per year.



Real Property and Land Use Section

The ten attorneys in the Real Property and Land Use Section provide legal advice to the City on issues involving the management and leasing of the City's extensive real estate portfolio, and public and private development projects. Primary areas of

responsibility include the Airports, Development Services, Facilities Financing, Housing, Neighborhood Code Compliance, Park and Recreation, Planning, Real Estate Assets, and various Stadium facilities, including Qualcomm, PETCO Park, and the Valley View Casino Center (Sports Arena). The lawyers frequently draft memoranda of law, opinions, reports, resolutions, and ordinances for the City departments, as well as draft and review property-related contracts, documents, and correspondence. Additionally, these lawyers staff and provide advice to the Planning Commission, Historical Resources Board, Hearing Officers, Airport Advisory Committee, Smart Growth and Land Use Committee, Park and Recreation Board, and the Housing Authority of the City of San Diego. They also provide the City departments with advice on conflict of interest, Ralph M. Brown Act (open meeting law), and Public Records Act issues.

Real Estate

The Real Estate attorneys assist staff in the City's Real Estate Assets Department in managing the City's extensive portfolio of owned and leased property. The attorneys negotiate, draft, and review numerous real property-related contracts and associated documents, including purchase and sale agreements, leases, right-of entry permits, and deeds. The attorneys also

draft and review revisions to the San Diego Municipal Code, and assist Department staff with legal issues involving key assets of the City, including Montgomery Field and Brown Field Airports, Qualcomm Stadium, PETCO Park, and the Valley View Casino Center. This assistance regularly involves interactions with other governmental agencies, such as the Federal Aviation Administration, Caltrans, various branches of the military, and other state and federal agencies.

Land Use

The Land Use attorneys assist City staff with all aspects of public and private development in the City, including land use entitlements, condominium conversions, telecommunication facilities, building code issues, community planning issues, financing issues, housing projects, and the associated environmental review. These lawyers review environmental documents to ensure the City's compliance with the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA), and advise on compliance with the Multiple Species Conservation Program (MSCP), and the state and federal Endangered Species Act. In addition, the attorneys draft or review deferred improvement agreements, subdivision improvement agreements, reimbursement agreements for the construction of public facilities, public facilities financing plans, landscape maintenance agreements, development agreements, contracts for consultant services, grant applications and awards, right-of-entry permits, and special use permits. They also assist staff with revisions to the Land Development Code, the General Plan, and Community Plans.

Highlights for 2013

Real Estate

- Negotiated, drafted, and reviewed documentation necessary for the preparation of a new lease for City office space at 525 B Street.
- Assisted in the resolution of lease disputes at 600 B Street, as part of the move of City staff to 525 B Street.
- Worked with the federal government to attempt to avoid the closure of the Brown Field Airport Control Tower, due to loss of funding from the federal sequestration.
- Negotiated and reviewed documentation leading to the approval of the Metropolitan Airport Project at Brown Field.
- Drafted and reviewed documentation leading to the dedication, improvement, and maintenance of canyon park lands.
- Negotiated and reviewed documentation necessary to convert unused City property to a prospective affordable housing development in Nestor.

- Advised staff on numerous topics of public interest, including Olive Street Park, Wave House in Mission Beach, Bahia Hotel in Mission Bay, San Diego Kind downtown senior facility, Chargers contract, and Qualcomm security and janitorial contracts.

Land Use

- Drafted and reviewed legal documents associated with various public and private development proposals, including the proposed new State Courthouse, Plaza de Panama in Balboa Park, Metropolitan Air Park in Otay Mesa, SANDAG TransNet Smart Growth Program, Village at Market Creek in the southeastern area of San Diego, the proposed Castlerock de-annexation of more than 100 acres of property to Santee, One Paseo in Carmel Valley, Santa Luz Assisted Living Facility in the Black Mountain Ranch Community Planning Area, and various “green” development projects proposed under the City’s sustainable building expedite program.
- Provided legal review and guidance related to numerous Community Plan updates, including Barrio Logan, Ocean Beach, Uptown, North Park, Golden Hill, and Otay Mesa.
- Assisted staff in updating Public Facilities Financing Plans for various communities throughout the City, which identify potential funding sources for critical public infrastructure.
- Processed numerous amendments to the San Diego Municipal Code, addressing issues such as sidewalk cafes, downtown development regulations, housing impact fee on non-residential development, microbreweries, CEQA appeal provisions, municipal golfer’s

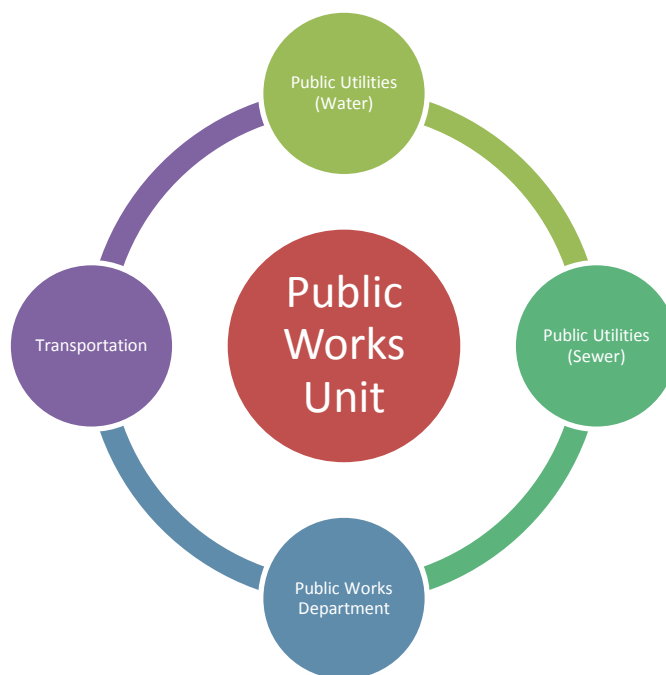


committee, streamlined processing for capital improvement projects, and memorializing the restructured City departments.

- Provided legal review and guidance related to the City's proposed Climate Action Plan.
- Worked with Planning staff to obtain Council and State approval of the Housing Element of the General Plan.
- Advised staff on numerous topics of public interest, including the Children's Pool, Medical Marijuana, Bicycle Master Plan Update, Balboa Park Centennial Celebration, San Diego River Park Master Plan, Living Lab/Ocean Discovery Project, and the Master Stormwater System Maintenance Program.

Public Works Section

The Public Works Section consists of seven attorneys offering legal advice on the construction, operation and maintenance of the City's water and wastewater systems, public buildings, streets, and other infrastructure.



Our attorneys are generally described as in-house counsel for various City departments. We are responsible for reviewing and drafting a variety of documents including contracts, ordinances, resolutions, municipal codes, regulations, RFPs, RFBs and RFQs. We advise and represent the City at local, state and federal administrative proceedings and at mediation to resolve disputes with contractors and vendors. We provide legal advice in diverse areas of law including water and wastewater fees, competitive bidding, bonds and insurance, contracts, prevailing wages,

the Clean Water Act, and the Safe Drinking Water Act. We encourage our attorneys to bring their boots and a hard hat to help our City employees in the field and resolve legal issues quickly and inexpensively.

Much of the work we do is behind-the-scenes and protected by attorney-client privilege. On occasion, though, our attorneys have a visible role on projects that are of public interest and knowledge. Here are a few highlights of some of these projects.

Highlights of 2013

Prevailing Wages: On October 13, 2013, Governor Brown signed California Senate Bill 7 (SB 7) prohibiting charter cities like San Diego from receiving state funding or financial assistance for construction projects unless the charter city complies with state prevailing wage laws on all of its public works projects. We provided a legal analysis of SB 7 and the City's ability to pay prevailing wages on City projects. Pursuant to the direction of the Mayor and a City Council majority, we amended the Municipal Code to comply with SB 7 and pay prevailing wages on City projects.

Water Rates: The City's cost to purchase water for its customers increased again in 2013. We assisted the City with the Proposition 218 process for increasing water rates, and with adding a new tier to the City's water rate structure making water cheaper for low-water users.

Public Safety, Labor, Employment, and Training Section

Supervised by Chief Deputy City Attorney Mary Nuesca, this Section provides a wide array of legal services to other City departments, City Council, and internally to the City Attorney's Office. Section attorneys advise on public safety, assisting the Police Department (SDPD), including the Family Justice Center; the Fire-Rescue Department, including the Lifeguards, Emergency Medical Services, and the Office of Homeland Security; and the Permit Issuance and Code Enforcement Division of the Development Services Department (also known as "Neighborhood Code Compliance"). Additionally, attorneys advise the Public Safety and Neighborhood Services Committee. Section attorneys advise City-wide management on labor and employment related issues, and are members of the Americans with Disability Act Committee, Labor & Advisory Committee, and Threat Assessment Team. Section attorneys advise the Human Resources Department, Personnel Department, Risk Management Department, and SPSP/401(k) Board.

Section attorneys advise on special projects including matters such as the Managed Competition Program, and belong to the City Attorney's Crisis Response Team. Members advise the Citizen's Review Board on Police Practices, the Human Relations Commission, the Managed

Competition Independent Review Board, and the Commission on Gang Prevention and Intervention.

This Section also runs and oversees the office-wide attorney professional development program which allows attorneys to fulfill their state-mandated continuing education by attending in-house training sessions, and which provides opportunities for attorneys to further their skills.

Public Safety Unit

Supervised by lead attorney John Hemmerling, Deputy City Attorneys Linda Peter, and Paige Folkman (also known as the “Police Legal Advisors” or “PLA”) work closely with the Police Chief, his Assistants, and commanding officers, both sworn and civilian; Deputy City Attorney Noah Brazier advises the Fire Chief and his Assistants, including the Lifeguard Chief; and Deputy City Attorney Karen Li advises Neighborhood Code Compliance, the Citizen’s Review Board on Police Practices, the Human Relations Commission, and manages the Temporary Restraining Order process for City employee victims. Unit members respond to questions and assist with projects from all levels and members of those departments, as described below.

Unit Scope of Work: Police Department

- Advising on discipline, labor, employment, equal opportunity, and disability issues.
- Drafting ordinances, resolutions, memoranda of understanding and contracts.
- Drafting and presenting reports to the Mayor and Council, drafting legal opinions and memoranda of law.
- Interpreting statutes, including the Public Safety Officers Procedural Bill of Rights Act, and other legal documents.
- Responding to subpoenas and requests for public records.
- Monitoring and advising on new case law and new legislation.
- Litigating administrative matters involving police permits, discipline, alcohol license-related matters, and appeals from those hearings.
- Representing the Department in *Pitchess* motions seeking access to confidential police personnel records, in motions seeking retention of seized firearms, in motions seeking the return of seized property, and handling writs and appeals related to those motions.

Unit Scope of Work: Family Justice Center

- Advising on discipline, labor, employment, equal opportunity and disability issues.

- Drafting ordinances, resolutions, memoranda of understanding and contracts.
- Interpreting statutes and other legal documents.
- Responding to subpoenas and requests for public records.
- Monitoring and advising on new case law and new legislation.

Unit Scope of Work: Fire-Rescue Department/Lifeguards

- Advising on discipline, labor, employment, equal opportunity and disability issues.
- Drafting ordinances, resolutions, memoranda of understanding and contracts.
- Drafting and presenting reports to the Mayor and Council, drafting legal opinions and memoranda of law.
- Interpreting statutes, including the Firefighters Procedural Bill of Rights Act and ocean safety and maritime law.
- Responding to subpoenas and requests for public records.
- Monitoring and advising on new case law and new legislation.
- Advising the Office of Homeland Security, including participating in regional efforts to maximize emergency preparedness while efficiently using and sharing resources.



Unit Scope of Work: Public Safety and Neighborhood Services Committee (PS&NS) (Now called Public Safety and Livable Neighborhoods (PS&LN))

- Advising the Committee on Brown Act and other legal issues.
- Coordinating legal assignments from the Committee.

Unit Scope of Work: Commission on Gang Prevention and Intervention

- Advising on Brown Act issues.
- Drafting ordinances, resolutions, and other legal documents.

- Interpreting statutes and other legal documents.
- Monitoring and advising on new case law and new legislation.

Unit Scope of Work: Human Relations Commission

- Advising on Brown Act issues.
- Drafting ordinances, resolutions, and other legal documents.
- Interpreting statutes and other legal documents.
- Monitoring and advising on new case law and new legislation.

Unit Scope of Work: Citizens Review Board on Police Practices

- Advising on Brown Act issues.
- Interpreting statutes and other legal documents.
- Monitoring and advising on new case law and legislation.
- Responding to subpoenas and requests for public records.

Unit Scope of Work: Neighborhood Code Compliance Division (now known as the Code Enforcement Section)

- Drafting ordinances, resolutions, and memoranda of understanding and contracts.
- Interpreting statutes and other legal documents.
- Responding to subpoenas and requests for public records.
- Monitoring and advising on new case law and new legislation.

HIGHLIGHTS 2013

The Unit handled approximately 67 *Pitchess* motions and 30 firearms motions. Unit members filed and responded to two writs filed in Superior Court challenging the outcome of *Pitchess* motions.

In the published case of *City of San Diego v. Boggess*, 216 Cal. App. 4th 1494 (2013), pursuant to California Welfare & Institutions Code section 8102, unit members obtained an order to destroy firearms seized after officers responded to a person threatening suicide,. On appeal, the Fourth District Court of Appeal found that substantial evidence supported the trial court's order to destroy the seized firearms, and that Welfare & Institutions Code section 8102 is constitutional, despite appellant's argument that two U.S. Supreme Court cases interpreting the Second Amendment invalidated section 8102.

The PLA handled several matters related to police-regulated businesses. In an administrative hearing, members successfully defended a three-day suspension and a \$20,000 fine imposed by the Chief of Police on “Cheetah’s” for violating the City’s nude entertainment ordinance. The PLA assisted the SDPD in reaching a settlement agreement with “Stars and Lace” for a ten-day suspension for violating the City’s nude entertainment ordinance. (“Stars and Lace” closed down shortly thereafter.)

In another administrative hearing, the PLA successfully defended the revocation of Crown Coffee and Hookah Lounge’s Tobacco Retailer permit. Since its opening in 2011, the Lounge has been the source of numerous calls for service, and arrests and citations have been made for violations such as minors in possession of alcohol, possession of a controlled substance, open container, and disorderly conduct. The Lounge did not allow police inspection on two occasions as required by the San Diego Municipal Code (SDMC), and provided entertainment without a police permit, as required by the SDMC. Despite meetings with the SDPD and surrounding community members, the Lounge failed to correct its behavior, continuing to be a drain on police resources and negatively impacting the quality of life for area businesses and residents. The Lounge further appealed to the Public Safety and Livable Neighborhoods Committee in January 2014. The PSLN Committee declined to hear their appeal.

PLA assisted the SDPD and Special Events in two separate appeals to PS&NS regarding the denial of a special event permit for the use of alcohol at the beach. PS&NS upheld the denials.

Members reviewed and updated over 30 police procedures. The PLA assisted the SDPD in publishing the Training Bulletins in response to a U.S. Supreme Court case and a 9th Circuit case that greatly affected law enforcement practices. Specifically, the court rulings affected the way forced blood draws are handled and how officers may proceed on “curtilage” searches and seizures. (“Curtilage” refers to the area immediately surrounding a house or dwelling, and any closely associated buildings and structures, but excludes any associated open fields beyond the area immediately surrounding the house.)

Additionally, the PLA reviewed numerous contracts, MOU’s, and MOA’s including those involving uniforms, cameras, fuel for helicopters, background checks, treadmills, money for DNA testing, TASERS, AB 109 Prison Realignment, Children’s Pool cameras, the Detox Center, San Diego Unified Port District Police/Fire Services, the Navy Region SW Specialized Police Response, the VA Hospital, Surf Camp, SANDAG/Arjis, Internet Crimes Against Children, as well as reviewing numerous grants.

Other projects included meeting with an Assistant SDPD Chief and court personnel, including the Presiding Judge and Assistant Presiding Judge, regarding officer negotiations and other issues at Kearny Mesa Traffic Court.

The PLA worked with the Family Justice Center to resolve ongoing issues with financial and business agreements, as well as the transition from Service Provider Agreements to License Agreements with the numerous charity and non-profit provider organizations who provide services at the Family Justice Center.

The Unit remains involved in issues such as medical marijuana, homelessness, and the “Open Carry” movement, which advocates for the Second Amendment by openly carrying unloaded firearms.

Deputy City Attorney Karen Li assisted City staff in responding to multi-department Public Records Act requests, reviewing voluminous documents for subpoenas duces tecum in coordination with litigation attorneys, updating the Citizen Review Board’s bylaws, and successfully obtaining a restraining order protecting City employees from workplace violence.

At the direction of PS&NS, Ms. Li drafted SDMC section 42.0706, also known as the Pet Shop Ordinance or the Companion Animal Protection Ordinance, which was ultimately enacted by the City Council to regulate the sale of dogs, cat, and rabbits in pet shops, retail businesses, and commercial establishments in an effort to address consumer protection issues. Because of the substandard mass-breeding facilities known as “puppy mills” and “kitten factories,” animals born and raised at these facilities are more likely to have genetic disorders and lack adequate socialization unbeknownst to the consumers purchasing their pets. As these animals are often sold at the pet stores, this ordinance aims to protect the citizens, promote the humane treatment of animals, lower the shelter animal euthanasia rate, and increase the adoption rate of shelter animals. She also supervised a certified legal intern and assisted with various training topics for the Human Relations Commission and Citizens’ Review Board on Police Practices.

Employment Services Unit

The Employment Services Unit, under the supervision of lead Deputy City Attorney Joan Dawson, provides legal services in a variety of areas, including employment, labor relations, and retirement. Deputy City Attorneys Lori Thacker, Roxanne Story Parks, and Bill Gersten, with the assistance of provisional attorney Sharon Marshall, provide legal advice to the Human Resources Department, Risk Management Department, Personnel Department, the SPSP/401(k) Board, and the Managed Competition Independent Review Board. Unit members also advise City-wide management on all labor and employment related issues, and are members of the Americans with Disabilities Act Committee, Labor and Advisory Committee, and Threat Assessment Team. Unit members also handle special projects including advising on complex citywide Public Records Act requests.

Unit Scope of Work: Employment Services Unit

- Advising management on the Family and Medical Leave Act, Americans with Disabilities Act, Title VII of the Civil Rights Act, Fair Employment and Housing Act, California Family Rights Act, Fair Labor Standards Act, Pregnancy Disability Leave, Firefighters Procedural Bill of Rights Act, Meyers-Milias-Brown Act, Uniformed Services Employment and Reemployment Rights Act, and other relevant employment and labor laws.
- Advising management on pensions and benefit implementation and administration.
- Assisting management throughout the employee discipline, appeal, and grievance process to ensure compliance with City policies and procedures and applicable laws.
- Advising management on labor, equal opportunity, diversity, privacy, medical leave, disability, and other personnel related issues.
- Advising on the conducting of investigations and fact findings concerning employee-related discipline and complaints.
- Conducting training on employment related matters, the Brown Act, and California Public Records Act.
- Representing the City in Domestic Relations Orders, workplace Temporary Restraining Orders, and Order to Show Cause hearings.
- Responding to agency complaints and charges regarding employment related matters. The agencies involved include the Department of Labor, Division of Labor Standards Enforcement, Equal Employment Opportunity Commission, Department of Fair Employment and Housing, and the California Occupational Safety and Health Administration.
- Assisting departments in responding to subpoenas, discovery motions, and requests for public records.
- Drafting ordinances, resolutions, memoranda of understanding, and contracts.
- Drafting and presenting reports to the Mayor and Council, drafting legal opinions and memoranda of law.
- Representing the City in labor negotiations, meet and confer meetings, settlement conferences and mediations.
- Advising management during the meet and confer process with the City's six labor unions and on interpretation and implementation of memoranda of understanding with the labor unions.



- Defending the City against any alleged unfair labor practices in actions before the Public Employment Relations Board (PERB).
- Monitoring and advising on new case law and new legislation.

HIGHLIGHTS 2013

In 2013, the Unit provided legal support to the City's labor negotiation team, who worked to negotiate the pension reform measures set forth in Proposition B, a citizen initiative that amended the City Charter. The Unit did the legal work related to approval of five-year agreements between the City and each of its recognized employee organizations, which limited employees' pensionable compensation. The Unit also provided advice on employment-related issues following the vacancy in the Mayor's Office. Unit attorneys advised on the City's legal obligation to implement an employee proposal following a managed competition, and on a proposed memorandum of understanding between the City and its retirement system related to administration of retiree health benefits. The Unit also provided advice related to implementation of the Affordable Care Act.

The Unit continued to protect the workplace from violence perpetrated against City employees by obtaining temporary restraining orders and preliminary injunctions when necessary. Unit attorneys also responded to work-related discrimination complaints and charges filed by employees with various government agencies, and assisted in employment and labor-related litigation cases. Finally, the Unit continued to work with City human resources staff members to ensure legal compliance with the City's medical and disability process, and worked through many various and complex personnel issues, including advising on issues related to due process, the accommodation process, and disciplinary actions and plans.

Crisis Response Team

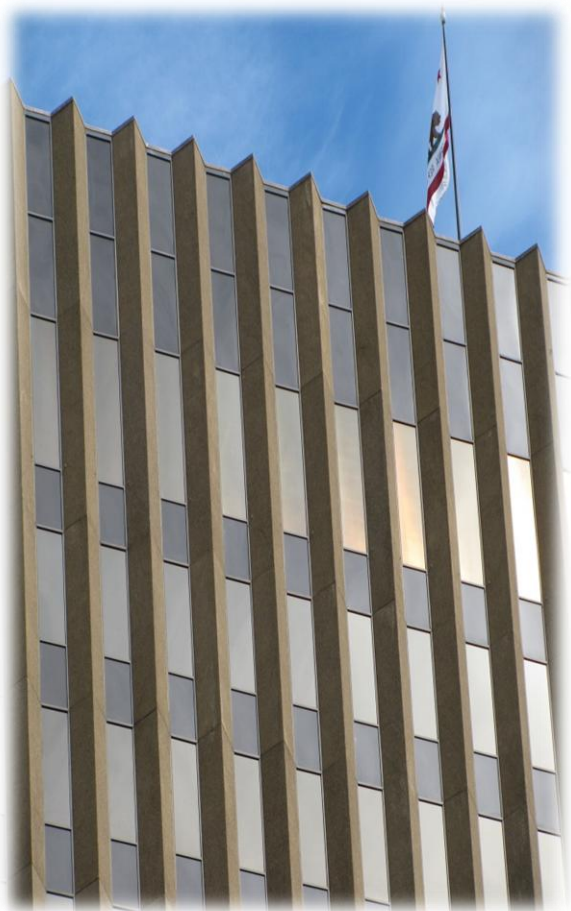
The Crisis Response Team is the City Attorney's own team of in-house experts on disaster management. The Team put together a comprehensive manual to be used to advise City management in the event of a disaster. The Team attends multi-jurisdictional preparedness trainings and updates the manual and City staff on any changes in the law.

Training

The Civil Division continues its in-house training program. Practice groups meet to discuss and train on current issues in the following areas: land use, public records, employment, personal injury, and contracts. The Civil Division held special training sessions on advisory matters, including California Environmental Quality Act (CEQA), the Clean Water Act, 42 U.S.C. Section

1983 cases involving excessive force, and recent developments and ethical issues in electronic discovery.

The Criminal Division continues its monthly "Professional Development Program" training series. Prosecutors, investigators and paralegals meet monthly to discuss and receive training in specialized issues, current trends and general advocacy skills. Training highlights from 2013 include: voluntary/involuntary intoxication; social media and prosecution; PC1368/1370 competency issues; and AB109, the 2011 Realignment Legislation.



Civil Litigation Division: The Civil Litigation Division prosecutes or defends civil lawsuits in which the City is a party. The Civil Litigation Division is divided into five units: Civil Prosecution, Workers' Compensation, Land Use Litigation, General Litigation and Special Litigation. Andrew Jones, Executive Assistant City Attorney and Don Worley, Assistant City Attorney are heading this division. Mr. Worley has over 30 years in private practice in land use, real estate, and business litigation.

General Litigation Unit

The San Diego City Attorney's General Litigation Unit consists of Chief Deputy City Attorney Donald F. Shanahan, Deputy City Attorneys Jane Boardman, Bonny Hsu, Keith Phillips, Catherine

Turner, John Riley, Stacy Plotkin-Wolff, Kathy Steinman, Christina Milligan, Rayna Stephan, Marsha Kerr, Timothy Stutler and Brian Cline. Each attorney handles a heavy case load, defending the City of San Diego, agencies within the City, and its agents. The types of cases handled by the General Litigation Unit include, but are not limited to, police excessive force cases, state common law torts, constitutional issues, dangerous condition cases, motor vehicle

accidents, and an assortment of other tort and personal injury cases. The attorneys in the General Litigation Unit were highly successful in resolving a variety of lawsuits favorable to the City. Numerous summary judgment motions, motions to dismiss, and demurrers were obtained for our City clients.

During the past year, the General Litigation Unit received 102 new cases, in addition to the carry-over of cases from 2012. 67 cases were disposed of through trials, motion practice, tender letters, and settlement negotiations. In addition to resolving cases which monetarily benefit the City, the General Litigation Unit obtained legally significant rulings. Several examples include:

Stein v. City of San Diego

On November 27, 2010, Plaintiff was crossing Mission Boulevard mid-block when he tripped on the center median and broke his hip. Plaintiff contended that it was completely dark on the night of his fall and could not see his hand in front of his face. The trial court granted the City's motion for summary judgment on February 14, 2012. Plaintiff appealed. The court of appeals affirmed the trial court's order of dismissal on June 18, 2013.

Catlin v. City of San Diego, et al.

On March 2, 2009, Plaintiff was pulled over for driving with a broken windshield. The officer believed he was under the influence of a controlled substance and arrested him. Thereafter, the officer conducted a search of his vehicle. The laboratory test came back negative for controlled substances. Thereafter, on September 20, 2011, Plaintiff was stopped again for crossing over double yellow lines. After stopping his vehicle, Plaintiff failed to comply with the officer's commands and was ultimately arrested for a violation of PC 148. After repeated failures to serve the named officers and the City, the Court granted Defendants' motion to dismiss on July 17, 2013. Plaintiff filed a notice of appeal but failed to perfect the appeal, which was ultimately dismissed on September 24, 2013.

Defelice v. City of San Diego, et al.

On October 29, 2010, Plaintiff was rear-ended by a Chevy Tahoe driven by San Diego Police Detective Fernando Ramirez. Her vehicle was declared a total loss at \$11,943.47. The accident resulted in injuries to her neck, shoulder, lower back, and migraine headaches. In addition to the above physical injuries, Plaintiff alleged severe emotional damages. She claimed that prior to this accident, she was able to work but, as a result of her accident related injuries, she was now collecting Social Security Disability. Plaintiff sought \$299,000 via her 998 offer. At trial, Plaintiff requested \$250,000. A four day trial commenced in January 2013 resulting in a verdict in the amount of \$60,200.

Olson v. City of San Diego

On May 24, 2011, Plaintiff was riding his mountain bike on Bayfront Walkway when he encountered a construction crew with a concrete hose across the sidewalk. Despite seeing six orange cones, Plaintiff rode his bicycle through the construction zone and flipped over his handle bars. He sought \$25,000.00 in damages. After thorough discovery and motion practice, Plaintiff accepted the City's Code of Civil Procedure Section 998 offer of \$500.00.

Harris v. City of San Diego

On September 3, 2011, Plaintiff was walking his dog along Third Avenue when he stepped on a manhole cover, which fell into the utility vault located below the sidewalk. As a result, Plaintiff ruptured his Achilles' tendon and sustained various bumps and bruises. Plaintiff sued the City, SDG&E and the property owner. After thorough discovery and a motion for summary judgment that was not granted, a settlement conference resulted in a settlement in the amount of \$265,000.00 of which the City contributed \$5,000.00.

Walter Downarowicz v. City of San Diego, et al.

On August 4, 2011, at approximately 10:30 a.m., Plaintiff Walter Downarowicz was riding his bicycle on Rt. 56 bike path in San Diego. As Plaintiff rolled down a hill eastbound on the path, he came to a 90 degree turn that curves around a white house. As he went around the corner he was confronted head on by a white pickup truck driving on the bike path in an easterly direction. While attempting to avoid a collision with the white truck (owned by Brewers Lawn Maintenance, Inc.) he collided with a wooden fence. Plaintiff claimed to have sustained the following injuries; two broken ribs on the left side, shoulder pain, bruised neck, chest pain, mental suffering, loss of enjoyment of life, disfigurement, physical impairment, inconvenience, grief, anxiety, humiliation, and emotional distress. Plaintiff further alleged that he suffered loss of use of property, hospital and medical expenses, general damage, property damage, and loss of earning capacity. The City did not employ the person operating the motor vehicle, the City did not own the motor vehicle, and the City did not entrust the motor vehicle to Brewer's Lawn Maintenance. After mediation, the City was dismissed.

Michael Nordgren v. State of California, County of San Diego, City of San Diego

On January 13, 2012, at approximately 8:25p.m., Plaintiff Michael Luciano Nordgren was traveling westbound in the 4800 block of La Jolla Village Drive when for no apparent reason he lost control of his motorcycle and injured himself. A San Diego Police Officer responded to the scene and contacted Plaintiff who essentially stated the he "thought he saw something in his lane. Plaintiff lost control of his motorcycle and put it down in the lane." Plaintiff claimed to have sustained numerous serious and permanent injuries which included, but were not limited to: internal bleeding; a severely fractured left ankle requiring external fixation; multiple

fractures to his left leg requiring several emergency surgeries and a hospital stay; severe bruises and contusions throughout his chest, abdomen and entire body; several fractured ribs; severe abrasions and cuts to his left leg, buttocks, abdomen, and both hands; past, present and future severe emotional injuries; past, present and future general damages; past, present, and future loss of earnings; loss of earning capacity; permanent disability; etc. Plaintiff's demand was \$2,000,000. City filed a demurrer to Plaintiff's first amended complaint on August 23, 2013. Plaintiff dismissed the case with prejudice on October 15, 2013.

William Kincade v. City of San Diego, et al.

Plaintiff sued the City and six lifeguards, firefighters and paramedics for injuries he allegedly sustained as a result of being rescued from his boat in Mission Bay. Plaintiff alleged causes of action for Gross Negligence pursuant to Health & Safety Code §1799.106-108 and Res Ipsa Loquitur Gross Negligence and alleged that the city employees breached their duties to Plaintiff in a grossly negligent manner by failing to use the level of skill, knowledge, and care in diagnosis and treatment that other reasonably careful paramedics, medical or emergency rescue personnel would have used in the same or similar circumstances. Plaintiff alleged he sustained a multitude of injuries as a result of his rescue from the boat, including injuries to his left foot, right leg, right hip, right thigh, nerve damage to his right leg and cuts on both of his hands. Defendants filed a motion for summary judgment and upon receipt of same, Plaintiff advised Defendants that he did not believe he could overcome the motion and agreed to dismiss the case, with prejudice.

Antonia Villareal v. City of San Diego

Plaintiff sued the City of San Diego for injuries she allegedly sustained from a trip and fall accident over a metal fence post stump that was next to the sidewalk. She claimed to have sustained a broken nose, a concussion, broken teeth, neck and back pain, as well as abrasions to her hands, face and knees. The City filed a motion for summary judgment and upon receipt of same, Plaintiff advised Defendant that she did not believe she could overcome the motion and agreed to dismiss the case, with prejudice.

Workers' Compensation Unit

The Workers' Compensation Unit has four attorneys, Diana Adams, Linda Godinez, Michael Herrin and Thomas Griffin, whose primary responsibility is to work closely with the Risk Management Department by providing timely, accurate and high quality legal advice. The attorneys provide legal advice to 18 claims adjusters on a multitude of workers' compensation issues.

The goal of the Unit's attorneys is to ensure that every City employee that is injured on the job receives all legally entitled benefits, while preventing fraudulent claims and abuses. Accomplishing these seemingly conflicting objectives requires a strong emphasis on personal integrity and professional independence.

The Unit's worth is immeasurable, since its contributions to cost savings occur on a daily basis while guiding the handling of Workers' Compensation claims. Due to continual reformation in the workers' compensation system, the attorneys are charged with providing advice to the Risk Management Department on a wide range of issues, from interpretation of wholesale legislative changes such as those of 2004 and 2012, to day to day operational decisions regarding medical care.

In its advisory role, the Unit's attorneys provide savings of hundreds of thousands of dollars, by preventing over payment of benefits, redirecting medical expenditures, and limiting exposure to penalties.

In addition to its advisory role, the unit's attorneys defend the City against fraudulent and abusive workers' compensation claims by handling all aspects of litigation at the Workers' Compensation Appeals Board including trials, mandatory settlement conferences, expedited hearings, appeals, medical liens, death benefits, discovery, motions and other petitions.

In 2013 the unit had over 990 open, active cases, resulting in 300 hearings, 62 depositions, 2 appeals, and 43 trials at the Workers' Compensation Appeals Board. These actions resulted in cost savings of more than \$7,794,393 for the City of San Diego.

[Land Use Litigation Unit](#)

The Land Use Litigation Unit (LULU) prosecutes and defends all real property, land use, development and environmental actions on behalf of the City of San Diego.

LULU provides specialized knowledge and representation of the City in the following types of litigation:

- Prosecutes and defends legal actions involving the California Environmental Quality Act (CEQA) and the National Environmental Protection Act (NEPA)
- Prosecutes and defends state and federal eminent domain actions

- Prosecutes and defends state and federal constitutional challenges to City's permit process and its decisions as it relates to the use of land, real estate valuation and real estate development
- Defends actions relating to administrative decisions by the City involving the subdivision map act, zoning, permitting and other administrative procedures
- Defends and initiates land use cases, including writs of mandamus and prohibition, CEQA writs, and property damage claims arising from floods, sewer backups, soil subsidence, etc.
- Defends federal actions under the Religious Land Use and Institutionalized Persons Act, Telecommunications Act and the Endangered Species Act
- Defends cases involving direct and regulatory inverse condemnation matters
- Advises City Council and City Departments relating to potential litigation and settlement of claims involving land use matters

These specialized skills are important to the City in that land use cases typically have enormous economic implications for the City. Without attorneys capable of navigating the complex and unique issues land use cases raise, the City could be liable for significant damages and attorneys' fee claims and lose its ability to regulate the use of its land.

Last year the Land Use Litigation Unit handled approximately 75 cases as well as advising various City Departments on potential litigation matters.

Highlights of 2013

City of San Diego v. Board of Trustees of California State University

The City of San Diego brought an administrative mandamus action challenging the decision of the Board of Trustees of the California State University to certify and adopt the Final Environmental Impact Report relating to the approval of the San Diego State University 2007 Campus Master Plan Revision without providing for payment of mitigation measures addressing significant traffic impacts on the surrounding community. This case is currently under review in the California Supreme Court.

Cuevas v. City of San Diego

Quiet title action seeking easement over City's valuable environmental mitigation land which could affect federal agreements with the City.

DPA Investments (Vagabond Hotel) v. City of San Diego

Complaint for inverse, negligence and dangerous condition based upon failure of water main when SDG&E was doing work on 4/4/12 and flooded hotel.

Freepb.Org v. City of San Diego

Plaintiff brings a federal action challenging the constitutionality of City's permit process of park use.

In re Wireless Litigation

This federal matter involves seven consolidated actions challenging the City's application of its telecommunication regulations. This case affects the City's ability to regulate the use and aesthetics of telecommunication structures in its communities. City was successful in the trial court. Plaintiffs have appealed and the matter is pending before the Ninth Circuit.

San Diegans for Open Government v. City

Challenge to 2014 PBID and 2014 MAD's.

Success in land use litigation matters are significant because the City's right to use and regulate its land is crucial to our economy and preservation of our communities. Also, significantly, most land use cases, if lost, require the City to pay an attorneys' fee award. In general, in civil litigation, parties incur their own fees and costs. However, land use cases (CEQA, mandate, and inverse condemnation) provide for a statutory award of fees to a successful Petitioner. Thus, victories are not only significant to protect the City's land use, zoning, planning and development decisions but also to preclude money awards against the City.

235 On Market HOA v. City

HOA alleged damage as a result of City's sewer system. Original demand \$1 million. City settled for nominal amount.

Fox, et al. v. City of San Diego, et al.

Petitioners challenge the constitutionality of the recently passed Senate Bill 863 by the State Legislature and the involvement by the City of San Diego, City Council of the City of San Diego, Redevelopment Agency, and Centre City Development Corporation.

Chollas Restoration, Enhancement and Conservancy Community Development Corporation and San Diegans for Open Government v. City of San Diego

Petitioner challenges the environmental review related to the approval of a project known as the Wightman Street Neighborhood Park, a children's park located near 5024 Wightman Street. Writ denied.

De Soto v. City

Homeowners filed complaint alleging inverse condemnation, violation of due process and equal protection rights because City issued Stop Work notice on residential construction of their home.

Case was dismissed and City incurred no fees or costs.

Kvashay v. City of San Diego

Case involving property and challenge to special assessment proceedings conducted pursuant to the Improvement Act of 1911. Court sustained demurrer and case was dismissed.

Save Our Heritage Organisation (SOHO) v. City

SOHO challenges the City's issuance of a permit to demolish a structure at 1015 West 12th Avenue, which included approval to construct a parking lot on the site. Court denied writ in December 2012.

Unite Here v. City

CEQA challenge to approval of hotel in Little Italy. Case dismissed.

Civil Prosecution Unit

The City Attorney's Civil Prosecution Unit (CPU) represents the City when the City is seeking damages; when construction disputes arise; when the City's Treasurer refers matters to the CPU for collection; and, when City Departments need assistance in resolving legal disputes. The Chief of the CPU, Dan Bamberg, is pleased to announce that CPU brought \$8,520,471.96 into the City's coffers in 2013. And, San Diego received national attention when a judgment was obtained for \$80,500,000 against lead paint manufacturers in a case litigated by the CPU's Paul Prather.



Deputy City Attorney Clay Welch primarily works with the City Treasurer's Delinquent Accounts Program and pursues recovery of amounts owed on invoices referred to the City Treasurer for collection. Clay, assisted by the CPU's Deputy City Attorneys Paul Prather, Molly Hoot, and Jon Taylor, recovered over \$200,000 in cash in 2013 on these cases. In addition to working with the City Treasurer, Clay works with other departments to assist with pre-litigation/pre-referral claims. In 2013 Clay helped Environmental Services resolve an audit dispute with ESD franchisee Daily Disposal Services, Inc. Daily agreed to pay the City \$1,392,985.09 over six years (\$285,122.40 of this amount was actually collected in 2013) and provide in-kind services worth \$387,387.13 during that period. Clay has also initiated other collection programs – with the City Treasurer and with the San Diego Police Department pre-litigation letters are sent by the City Attorney's Office to debtors that are delinquent in paying their financial obligations and letters to parties causing DUI-related accidents seeking recovery of emergency response costs.

In addition to assisting Clay Welch and Molly Hoot in pursuing those who are delinquent in meeting their financial obligations to the City, the CPU's Paul Prather spent over six weeks travelling to the Santa Clara Courthouse to prosecute California's largest public nuisance case. Known as the *Lead Paint* case, San Diego in collaboration with nine other cities and counties brought a public nuisance suit against Sherwin Williams, Atlantic Richfield, Dupont, Conagra and NL Industries claiming those companies created a public nuisance by promoting the use of lead paint for use in residential homes. In December, the Judge issued a verdict in favor of San Diego finding that the lead paint companies should pay \$80,500,000 for San Diego's further abatement of lead based paint in San Diego's homes built before 1978.

Deputy City Attorneys Jon Taylor and Molly Hoot of the CPU's Construction Litigation section initiate and defend lawsuits related to City construction projects. They both also

support the CPU's Revenue and Recovery section working with the City Treasurer's office to collect money owed to the City. This past year, they both litigated general liability cases involving lawsuits filed against the City. Jon also handles transient occupancy tax hearings with the City Treasurer's office and foreclosure work with Debt Management. In 2013, Jon recovered \$887,335.74 on behalf of the City.

The CPU's Molly Hoot recovered over \$300,000 in cost judgments awards and workers' compensation subrogation related claims. She has managed complex claims against the City of San Diego for delay damages related to construction projects such as the \$5,000,000 pre-litigation Quiet Zone claim which was resolved within the contract budget for \$900,000. Molly also resolved the \$5,000,000 pre-litigation Pedestrian Bridge claim within the contract budget for \$300,000. In addition Molly defeated a writ of mandate involving a \$10,000 public works contract and successfully tendered a \$500,000 construction claim to the general contractor.

Special Litigation Unit

Under the direction of Chief Deputy City Attorney Joe Cordileone, the Special Litigation Unit defends the City of San Diego, its employees, officials and departments in civil actions that are not considered "General Litigation" matters. The following are examples of the type of work performed by the Special Litigation Unit:

- Defend the City in class action lawsuits.
- Defend challenges to the constitutionality of City ordinances and City policies or practices.
- Defend employment-related cases which include claims of discrimination, harassment, retaliation and FLSA wage and hour matters.
- Defend the City in complex litigation — whenever any lawsuit against the City, by virtue of its size or level of difficulty, requires extra attention from the court, it is declared "complex," and its defense is transferred to the Special Litigation Unit.
- Represent various City departments in administrative hearings before the Civil Service Commission and CalOSHA.
- Prosecute and defend all appeals in State and Federal Courts.
- Defend writs or other non-standard legal challenges, including employment-related administrative writs, alleged Brown Act and Public Records Act violations, election challenges, and actions involving provisions in the City Charter and Municipal Code.

CASE EXAMPLES

Employment Cases with Far Reaching Effects:

Dailey v. City of San Diego

In a published decision, the Court of Appeal affirmed in full the trial court's determination that the City's retiree health benefit is not a benefit of the City's retirement system. It was this decision of the trial court that led the City's organized labor unions to agree to a 15 year memorandum of understanding that contained substantial changes to the retiree health benefit. These agreed to changes are estimated to save the City \$750,000,000.

In re: Jorge Leon

The City successfully appealed an administrative law judge's decision to grant unemployment benefits to Mr. Leon, a 30 year veteran of the San Diego Police Department who voluntarily retired following completion of the Deferred Retirement Option Program ("DROP.") This decision resulted in several other former City employees, who left City employment under circumstances similar to Mr. Leon, to terminate their applications for unemployment benefits.

Employment Cases Addressing Various Claims:

The City was successful in defense of various employment matters. Often the cases allege discrimination in one form or another as the basis for adverse employment actions including discipline, failure to promote and termination. In many cases, our deputies satisfied either state or federal trial judges that the cases were so lacking in merit that a trial was unnecessary resulting in many frivolous lawsuits being dismissed by the Court without the need for trial. The City also utilizes a program whereby it conducts a detailed early assessment of employment cases and, if there is any validity to the claim, it offers a fair and reasonable settlement early on with a goal to saving both sides the expense and inconvenience of protracted litigation.

Department of Fair Employment and Housing v. City of San Diego

2013 was a high profile year in employment matters due to charges brought against the City's newly elected mayor. As a result of the publicity, the State DFEH conducted an inquiry into the City's harassment training practices and the parties agreed that the City's practices could serve as a model for other public agencies.

Burse v. City of San Diego and others

A former employee brought several actions against the City and its employees claiming racial discrimination. The City was able to obtain a dismissal based upon the fact that nothing alleged was discriminatory in any way.

Got Dayacap-Cruz v. City of San Diego.

This disability, race discrimination and harassment case was concluded when the City persuaded the Plaintiff to drop her case. No money was paid.

Sutch v. various parties including City of San Diego

This harassment case was filed against the State Department of Transportation, the City, and a number of individuals. It settled at no cost to the City. No liability was found against the City or any of its employees.

Outside the Employment Arena the Special Litigation Section Deals with Many Interesting Cases:

Cases with Far Reaching Effect

The Redevelopment Dissolution Cases

The Special Litigation Unit represents the City and the Successor Agency to the Redevelopment Agency for the City of San Diego in numerous lawsuits arising from the Legislature's dissolution of the State's redevelopment agencies. Specifically, the City and the Successor Agency brought claims against the State Department of Finance seeking to overturn its decisions regarding past and future expenditures of tax money for certain obligations of the former redevelopment agency. Additionally, the Special Litigation Unit is currently defending the City and the Successor Agency against claims brought by the Affordable Housing Coalition of San Diego County asserting that the Successor Agency is required to satisfy outstanding affordable housing obligations of the former redevelopment agency that existed at the time of dissolution. This wide reaching and complex litigation will have an impact on City finances.

City Validation Action re: Proceedings Forming the Convention Center Facilities District and Related Special Tax Levy

City filed suit against all interested parties seeking confirmation of special taxes to finance Phase III of the Convention Center expansion among other things. Multiple parties challenged the validation contending the special tax was unconstitutional because it should have been subject to a Citywide general election. The trial court validated all of the City's actions.

City of San Diego v. State of California, Gov. Jerry Brown

City sought to invalidate a new state law forcing the City to place new employees in Social Security. The Court ruled in favor of the City, granting its motion for judgment on the pleadings and finding that the law conflicted with the City's recently enacted Charter Amendments (Proposition B) and the City's authority to determine compensation or pension benefits for its employees.

Next Generation Delivery, Inc. v Granewich

This case was brought by a medical marijuana distributor seeking to obtain a business tax certificate. The Court agreed with the City Treasurer that she did not have to issue a license to any business that was acting in violation of federal law, even if the activity was legal under state law.

Rudat v. City of San Diego

In this class action suit, Plaintiff contended that the fees the City charges for replacement trash containers was a tax that had not been approved by the voters and was therefore illegal. The City was able to persuade Plaintiff's counsel that the charges were the City's actual costs to replace trashcans and therefore not a tax at all. The case was voluntarily dismissed.

Cases Addressing Various Individual Non-Employment Claims

Amaral v. City of San Diego

Plaintiffs claimed civil rights violations and negligence claims against the City, two police officers, and a co-defendant against whom the main complaint was lodged. This case involved an eviction and a condemned residence. Police were called to the scene and ultimately were sued based largely upon their presence at the scene. After early negotiations in Federal Court, the case was dismissed for a very small payment amounting to less than what it would have cost the City to defend the case.

Christopher v. Dedonato, et al.

A woman, representing herself sued several SDPD officers alleging sexual harassment and various violations of the Penal Code resulting from a search incident to her arrest. The Court agreed with the City that the facts alleged by the Plaintiff could not amount to a claim against the City and the case was dismissed.

Clark v. City of San Diego:

Plaintiff filed suit alleging false arrest and excessive use of force. Paperwork filed by the City in its motion for judgment in its favor without a trial persuaded Plaintiff that he could not prevail and he voluntarily dropped his claim.

Demsse v. City of San Diego et. al

Plaintiff, a paraplegic, originally sued the City and its employees. The City was dismissed from the case early and it proceeded only against certain police officers and other government employees. Many of the claims were thrown out by the Court before trial. Finally, after a full jury trial, all City employees were found to have acted properly and a verdict for the defense resulted. The trial was coordinated with the efforts of County Council. The joint defense effort worked well, creating a trial synergy that Plaintiff could not overcome.

Jenson, et al. v. City of San Diego

Plaintiffs ran a coffee cart and hot dog stand in Civic Center Plaza. Their businesses were heavily impacted by the Occupy movement and protestors, with some protestors making physical and verbal threats to the business owners. Plaintiffs sued the City for damages alleging causes of action for public nuisance and premises liability. The City prevailed on a demurrer on the grounds that they could not allege a proper claim against the City. The Court agreed and Plaintiffs chose to drop the matter.

Lesnik v. Goldsmith, et al.

A man representing himself sued the elected City Attorney based upon his conviction for violating a restraining order. The Court agreed that the charges were without merit.

Nguyen v. City of San Diego

Plaintiff's case was dismissed because he failed to prosecute it. He appealed. The Court of Appeal affirmed the dismissal, noting that Plaintiff's failure to do anything on the case for 4 years and his failure to serve the City was detrimental to his case.

Vazquez v. City of San Diego

Plaintiff appealed the granting of summary judgment on his dangerous condition claim against the City. Plaintiff alleged that he suffered injuries when his car struck a sinkhole in the roadway. The City prevailed on summary judgment on the grounds that it had no notice of the sinkhole, which had apparently opened up at or around the time that Plaintiff was driving over the area. In August, the appellate court affirmed summary judgment in favor of the City, noting

that Plaintiff could point to no evidence in the record that the City was aware of the sinkhole or aware of the condition which reportedly led to the failure of the roadway.



[The Criminal Division](#) prosecutes criminal misdemeanors and infractions committed within the City limits. The Criminal Division is divided into five units: Case Issuance, General Trial, Domestic Violence, Neighborhood Prosecution and Appellate and is under the leadership of Assistant City Attorney Marlea Dell Anno. Ms. Dell'Anno is a career prosecutor who joined the City Attorney's Office in 2009, after gaining fifteen years of trial experience including the trial of rape, homicide, domestic violence, sexual assault and sexually

violent predator cases.

[Case Issuing Unit](#)

The Case Issuing Unit operates within the Criminal Division of the San Diego City Attorney's Office. The Case Issuing Unit is responsible for receiving, processing, and reviewing all reports submitted by local law enforcement agencies. Attorneys in the Unit review misdemeanor and infraction violations occurring within the City of San Diego, the City of Poway, and the unincorporated area known as 4S Ranch.

The Case Issuing Unit files three types of charges:

- Felony Wobblers: felony wobblers are crimes that may be prosecuted either as misdemeanors or felonies at the discretion of the prosecutor. The District Attorney's Office elects to send certain felony cases to the City Attorney's Office for misdemeanor prosecution.
- Misdemeanors: misdemeanors are crimes punishable by a fine and one year or less in the county jail.
- Infractions: infractions are crimes punishable only by a fine.

Over 1,500 cases are received and processed each month. In turn, over 1,250 complaints are filed in court each month. Each case is reviewed by an attorney who decides whether charges should be filed and, if so, what the charges should be. If charges are filed, the case is prepared

for arraignment. The Unit is jointly responsible with the Trial Unit for ensuring the proper arraignment of each individual charged with a criminal offense.

The supervisors within the Unit are responsible for the training and development of new attorneys and staff members. Attorneys are trained in the legal and technical requirements of reviewing cases and issuing appropriate charges against an individual. Staff members are trained on office and court procedures for filing cases in court. Some staff members are also trained to work in the Misdemeanor Arraignment Department as vital assistants to the attorneys, judges, and court personnel.

Staffing of the Case Issuing Unit

The Case Issuing Unit is headed by Chief Deputy City Attorney Michelle Garland and supported by nine deputy city attorneys and twenty-seven staff members. The staff members within the Unit are divided into three distinct groups, Case Intake, In-Custody Cases, and Complaints/Data Entry. Each group is tasked with a unique set of responsibilities within the case issuing process.

Cooperation with Law Enforcement Agencies

The Case Issuing Unit receives cases from a variety of law enforcement agencies. Attorneys and staff work closely with each agency to ensure successful prosecution of each viable case submitted. These agencies include: San Diego Police, San Diego County Sheriff, California Highway Patrol, San Diego Harbor Police, San Diego State University Police, University of California - San Diego Police, San Diego Community College Police, San Diego City School Police, Department of Animal Services, The Humane Society, Department of Health Services, Department of Fish and Wildlife, San Diego Park Rangers, San Diego Lifeguards, Metropolitan Transit District, and the Department of Alcoholic Beverage Control.

Attorneys from the Case Issuing Unit work with our partner law enforcement agencies to facilitate open communication, free flow of necessary information, and an ongoing dialogue regarding prosecution of misdemeanor cases. The chief and senior deputies frequently attend law enforcement meetings in an effort to answer questions and maintain consistency throughout the law enforcement community.

Case Issuing Statistical Information

In 2013, the Case Issuing Unit received approximately 18,906 cases directly from law enforcement or the District Attorney's Office. This represents approximately 79 percent of the criminal cases submitted to the City Attorney's Office as a whole. The Case Issuing Unit transfers some cases to other units for vertical prosecution, and often receives cases from vertical units for general review. In 2013, Case Issuing attorneys reviewed approximately

19,770 cases, including many cases submitted in late 2012. Overall, in 2013, complaints were filed in 15,080 cases, or 76 percent of the cases reviewed.

Issuing attorneys must be well versed in many areas of criminal law. In 2013, for example, Case Issuing filed approximately:

- 5,344 driving under the influence of alcohol or drugs cases (DUI)
- 16 of these cases were felony wobbler DUI with injury cases
- 1,820 petty theft cases
- 679 resisting arrest cases
- 512 prostitution related cases
- 462 felony wobbler drug possession cases
- 317 vehicular “hit and run” cases
- 39 assault with a deadly weapon or battery with serious bodily injury cases
- 39 grand theft cases
- 36 furnishing alcohol to a minor cases
- 29 unlawful possession of a firearm cases
- 24 restraining order violations or harassing telephone call cases
- 23 credit card or check fraud cases
- 12 identity theft related cases

The Unit also reviews other types of weapons cases, drug cases, suspended driver license cases, municipal code violations, environmental violations, trespass violations, and many more.

San Diego Traffic Offenders Program (S.T.O.P.)

The Case Issuing Unit assigns a deputy city attorney to the San Diego Police Department as part of the San Diego Traffic Offenders Program (S.T.O.P.). In 2013, the S.T.O.P. position was filled by both LeAnna Shields and Markecia Simmons. The S.T.O.P. deputy appears in court on vehicle impound and forfeiture hearings generated by unlicensed driver enforcement by the San Diego Police. She also reviews and prosecutes all driver license citations issued by San Diego Police Traffic Division motor officers.

In 2013, the S.T.O.P. deputy received 365 new cases directly from the S.T.O.P. program. An additional 178 cases were referred to the S.T.O.P. deputy based on the nature of the offenses. Overall, the S.T.O.P. deputy reviewed 559 cases in 2013, including some cases submitted in late 2012. Charges were filed in 496 cases, approximately 88 percent.

S.T.O.P. cases remain assigned vertically to the S.T.O.P. deputy for all stages of the case. In 2013, the S.T.O.P. deputy prepared one case for a suppression hearing and jury trial. She successfully conducted the suppression hearing, inspiring a guilty plea by the defendant.

In addition to her prosecutorial duties, in 2013, the S.T.O.P. deputy conducted fifteen civil vehicle impound hearings and forfeited thirty-seven vehicles pursuant to various procedures in the California Vehicle Code. Depending on the nature of the case, the proceeds from the sales of forfeited vehicles are either split evenly between the state and the city or are donated to the San Diego Youth & Community Services, and Mid-City Community Center.

Additionally, the S.T.O.P. deputy conducted thirteen civil forfeiture hearings for vehicles without the proper serial numbers. Destruction orders for either the entire vehicle or the component part missing the serial number were granted in nine of those cases.

Overall, the S.T.O.P. deputy acts as a liaison between the City Attorney's Office and the San Diego Police Department's Traffic Division. She handles matters that arise from the Tow Administration Unit, Photo Red Light Unit¹, and the Auto Theft Unit. This year the S.T.O.P. deputy provided valuable assistance in matters ranging from the photo red light program, to Ignition Interlock Devices, to mobile food vendor regulations, to misuse of automobile dealer license plates. Finally, the S.T.O.P. deputy serves as a great resource to other deputy city attorneys on DMV, traffic, and other vehicle related matters.

Highlights of 2013

Victim Finds Repeat Trespasser in Home

In December 2013, Case Issuing received a case involving a trespasser found taking a shower in the victim's home. The victim informed police that this was the second time the same suspect trespassed into her home without permission. The defendant had a significant history of violence and other trespass related offenses, and likely suffered from mental illness. The frightening nature of the incident generated media coverage of the case.

An Issuing deputy successfully filed the case and crafted a sentence designed to both protect the victim and deter the defendant. The defendant pleaded guilty and was sentenced to six months in custody and was ordered to stay away from not only the victim's home, but the entire surrounding housing complex.

Environmental Protection – Taking of Abalone

¹ Although the red light camera program ended in February 2013, there were still many outstanding citations and court issues to be resolved.

As San Diego is a coastal city, Case Issuing often receives cases involving unlawful types of fishing. In February 2013, a twenty-nine count complaint was filed against a young man caught taking abalone and other sea-life in violation of various environmental protection laws. Abalone are highly protected and the law prohibits taking them in certain areas, including San Diego. The defendant was found in possession of two abalone and faced substantial penalties. Ultimately, the defendant pleaded guilty and forfeited his fishing license, among other consequences.

Serious Battery Case

Battery cases, particularly between friends, are often some of the most difficult cases to prosecute. In February 2013, Case Issuing received a serious case involving two San Diego State University roommates. The defendant and his roommate engaged in a verbal argument. Defendant then struck his roommate in the mouth with a glass beer bottle, breaking four teeth and causing the victim to incur approximately \$7,000 in dental bills. Defendant was charged with assault with a deadly weapon and battery. He pleaded guilty to assault with a deadly weapon and was sentenced to three years probation, sixty days stayed custody, twelve days public work service, anger management, and perhaps most importantly, restitution to the victim.

Mothers Against Drunk Driving (MADD) Outstanding Prosecutor of the Year Award

Senior Deputy City Attorney Han Hershman was awarded the MADD Outstanding Prosecutor of the Year award in March 2013. This honor was bestowed upon Han for her diligent efforts in reviewing DUI cases, assisting DUI victims with case information, and carefully identifying which cases may qualify for felony review. As the senior deputy in Case Issuing, Han also mentors other issuing deputies on DUI case review. Her commitment to public safety and justice for DUI victims was appropriately honored with this award.

Transition with the Neighborhood Prosecution Unit

In the fall of 2013, Case Issuing began working closely with the Neighborhood Prosecution Unit (NPU). As NPU worked to redefine itself and take a new direction, Case Issuing prepared to assume responsibility for the daily issuing duties involving chronic offenders impacting the quality of life in San Diego. Issuing attorneys worked with the NPU attorneys to craft creative sentences designed not only to address the instant offense, but also designed to reach the underlying causes of the criminal conduct. For example, while requesting geographical stay away orders from impacted neighborhoods, the sentencing offers also include alcohol treatment or resources for homeless defendants.

Bail Schedule Adjustments

Case Issuing successfully recommended three additions to the Bail Schedule in December 2013. Increased bail was adopted for illegal slot machine possession and supervising prostitution, the misdemeanor version of human trafficking. Both of these crimes bring significant detriment to surrounding businesses or residents, and heavy consequences for the victims. Increased bail will ensure that offenders are not able to easily bail out of jail and continue the cycle of crime.

Additionally, Case Issuing worked with the Harbor Police to develop a bail scheme for speed violations at San Diego International Airport. Fines based on the speed of the driver will now address the actual level of driver culpability and increase public safety for vehicles and pedestrians traversing the hectic streets at the airport.

Training and Law Enforcement Outreach

Training and outreach is an important part of Case Issuing. In 2013, the Unit provided training for attorneys and paralegals on reading criminal history printouts and drafting affidavits in support of arrest warrants.

Time was also spent collaborating with law enforcement in order to ensure effective prosecutions. Highlights included transferring the liaison duties with the San Diego Police Department's Vice Unit from a vertical deputy city attorney to the Case Issuing Unit. Issuing attorneys also worked with the San Diego Police Department's Northern Division and the California Highway Patrol's commercial enforcement officers to understand current enforcement issues and offer recommendations for building strong cases.

In September 2013, Case Issuing was invited to participate in a county-wide meeting hosted by the Department of Alcoholic Beverage Control and the Sheriff's Department focusing on underage alcohol violations. Together with the District Attorney's Office, Case Issuing was able to offer insight as to evidence needed in order to prove such violations in court. Finally, Case Issuing was honored to present on citation procedures and other topics at the Department of Animal Services Academy in March 2013.

Collaboration with the District Attorney

This year also brought a continued partnership with the District Attorney's Office. Approximately 194 cases were referred to the District Attorney's Office by Issuing attorneys for felony review. In addition to case referrals, issuing attorneys maintained relationships within all the county branches of the District Attorney's Office in order to exchange information on cases and defendants of mutual interest.

General Trial Unit



The General Trial Unit of the Criminal Division prosecutes misdemeanor criminal cases in the City Attorney's Office, including driving under the influence, theft, and drug cases. As the largest unit in the Criminal Division, the Trial Unit handles over 85% of the criminal cases in the City Attorney's Office and the vast majority of misdemeanor crimes in the City of San Diego.

In 2013, the Trial Unit was led by Chief Deputy City Attorney Mark Skeels. The Trial Unit consisted of 13 full-time attorneys, 1 paralegal, 2 legal secretaries, 2 investigators, 4 trial support assistants, and 17 clerical staff and supervisors in the Discovery and Records and Information Units.

Deputy City Attorneys in the Trial Unit prosecute many serious cases that affect the daily lives of the residents of San Diego. They handle all proceedings on criminal cases after they are issued, including: arraignment, negotiating offers, reviewing each case to determine its provability at trial, writing and arguing pre-trial motions, trying the case, arguing the appropriate sentences, and appearing on any post-conviction court events. Through their interactions with the court, law enforcement, victims and witnesses, these attorneys serve as the face of Trial Unit.

Effective prosecution of these misdemeanor cases is vital to the quality of life in San Diego. Cases that made up the work of the Trial Unit in 2012 included:

- Driving under the influence of alcohol and/or drugs;
- Resisting arrest;
- Hit-and-run;
- Shoplifting and other forms of theft;
- Fraud and forgery;
- Assaults and batteries;
- Brandishing or possessing illegal weapons;
- Vandalism;
- Being under the influence of and/or possessing illegal drugs;
- Prostitution;



- Hate crimes;
- Municipal Code violations;
- Environmental crimes;
- Driver's license-related offenses;
- Drunk in public;
- Trespass;
- Failures to appear;
- Reckless driving;
- Illegal street racing; and
- Vehicular manslaughter.

Trial Statistics

Most of the cases handled by the Trial Unit result in a criminal conviction based upon a guilty plea before trial. Trial deputies appear at the plea and sentencing hearings to make sure the correct plea is entered and to argue for appropriate sentencing terms based upon the defendant's conduct. The Trial Unit has demonstrated a renewed effort to argue for additional sentencing terms in cases that warrant punishment beyond the standard sentencing guidelines. For cases that do not reach a disposition, each case set for jury trial was reviewed by a supervising prosecutor and prepared for trial. The process of trial preparation includes interviewing witnesses, sending subpoenas to witnesses, preparation of exhibits, obtaining police reports, ordering documentation from several crime laboratories, and securing the physical evidence such as photographs, 911 tapes, weapons, and blood vials. Once this process is completed, many cases resolve with a guilty plea on the day of trial in either the Presiding department or in an assigned trial department.

In 2013, 7,203 defendants pled not guilty at arraignment and their cases were handled by the Trial Unit in some fashion. Of those cases, 647 did not reach a disposition until the day of trial, which required a significant effort by the attorneys and staff to prepare each case for jury trial. 106 cases proceeded to jury trial. For cases where a verdict was rendered, 82 cases (85%) resulted in a guilty verdict on at least one count of the complaint and 15 cases (15%) resulted in an acquittal. The remaining 9 cases resulted in a hung jury, where a mistrial was declared. Those cases were subsequently resolved by a plea bargain or a dismissal. Despite having fewer deputies than in 2012, the Trial Unit prosecuted more jury trials and maintained nearly identical statistics.

Driving Under the Influence of Alcohol and/or Drugs

In an attempt to reduce recidivism for Driving under the Influence of Alcohol (DUI) offenders, and in response to a recent National Traffic Safety Board report, the Trial Unit conducted research regarding the effectiveness of Ignition Interlock Devices (IIDs) in reducing recidivism and the cost of installing the devices in San Diego. As a result of this research, the Trial Unit, at the direction of City Attorney Jan Goldsmith, implemented a policy of requiring Ignition Interlock Devices for all DUI defendants with high blood alcohol concentrations or other aggravating circumstances. Due to this new sentencing request, 156 DUI defendants were ordered to install IIDs in the 4th Quarter of 2013, compared with just 58 in all of 2012. This deterrent is expected to further reduce incidents of this preventable crime.

The deputies in the Trial Unit continue to receive highly-specialized training on DUI cases, learning how to properly review the police reports, order necessary documentation from various crime laboratories, and interview police officers, civilian witnesses, and criminalists. Our deputies have developed considerable skill in prosecuting cases involving defendants who are driving a vehicle while impaired by alcohol and/or drugs to a degree that they no longer drive with the caution and care characteristic of sober drivers. Many of these cases involve collisions with other vehicles or property, and some include injuries sustained by drivers, passengers, and others.

Our court department and trial deputies review thousands of these cases. A proper review must consider the blood alcohol level of the driver, the prior criminal history of the defendant, whether or not there was a pattern of bad driving, and any viable defenses that may be presented at trial. In 2013, the Trial Unit received dispositions on 4,884 DUI cases, a notable decrease from the 5,550 cases handled in 2012. Due to the training and expertise of the prosecutors in the Trial Unit, we maintained the remarkable 99.36% conviction rate on these serious cases. The Trial Unit continues to demonstrate a commitment to public safety by vigorously prosecuting these crimes in 2014.



Notable Driving Under the Influence cases that resolved in 2013 include:

People v. Blackford (M161738) – Defendant pleaded guilty to DUI with an excessive speed allegation after he crashed his city-issued vehicle while driving over 20 mph above the posted speed limit. Defendant was sentenced to 25 days of public work service in

addition to the standard terms of DUI probation. He was also ordered to pay restitution for the vehicle and property that he damaged.



People v. Ramirez (M167263) – Defendant was found passed out in a running 20 ton City of San Diego flat-bed trailer which he had driven onto an asphalt embankment. Defendant's blood alcohol concentration was a .21%. At trial, and contrary to all evidence, defendant claimed that he chugged a full bottle of tequila and a beer *after* he crashed the truck. The jury convicted defendant and he was

sentenced to 60 days of public work service in addition to probation and 9 months of DUI classes.

People v. Celeste Nichole Mitchell (M171318) – Defendant was driving while using her cell phone when she hit a pedestrian crossing the street. Mitchell backed up and hit the pedestrian again. She then drove off without exchanging insurance information or checking on the health of the pedestrian. The pedestrian was transferred to the hospital with minor injuries. When Defendant was found, she had a blood alcohol concentration of .36%, more than four times the legal limit. Defendant was not given any plea agreement and pled guilty to all charges. She was sentenced to pay restitution, install an IID, serve 270 days of custody and 5 years of probation with an abstain from alcohol order. Immediately after sentencing, defendant was remanded to custody in the County Jail.

Vehicular Manslaughter

Vehicular Manslaughter cases can be difficult to prove because the defendant's conduct does not amount to gross negligence and the jury trials present challenging evidentiary issues. In 2013, the Trial Unit received dispositions on six vertically prosecuted vehicular manslaughter cases and obtained outstanding results. The sentences for the convicted offenders included a combination of probation, custody, significant amounts of volunteer work service, public work service, court fines, and restitution for the victims' families. Two of the manslaughter cases the Trial Unit prosecuted this shared a similar negligent act of driving while overly tired:

People v. Laurie Vanessa Porter (M138058) – Defendant struck a 73 year old man riding a bicycle after she fell asleep at the wheel of her minivan. At trial she admitted that she was driving despite having only slept 3-4 hours the previous night. She stated that she did not wake up until the decedent hit her windshield. The jury convicted her and she was sentenced to 365 days in custody and ordered to pay restitution for victim's funeral expenses.

People v. Christine Michelle Padilla (M138058) – 32 hours after delivering her own baby, Defendant ran a red light at 50 mph, colliding with a nanny pushing a baby in a stroller while they were crossing the intersection in a crosswalk. The nanny died of blunt force trauma and the baby suffered major injuries. Despite no witnesses seeing the actual collision, the Trial Unit deputy who vertically prosecuted the case was able to secure a conviction and a sentence of 180 days of electronic surveillance custody, 2 days of jail time, 100 hours of volunteer work, an order of restitution to the victims' family and 3 years of probation.

Human Trafficking

Although Trial Unit deputies rarely prosecute perpetrators of human trafficking (a federal felony crime), they frequently need to assess whether defendants in prostitution cases may be victims of human trafficking. As active participants of the San Diego County Regional Human Trafficking and Commercial Exploitation of Children Advisory Council, Trial Unit deputies have a heightened awareness of the many challenges facing trafficking victims. Our collaboration with law enforcement, victim services, child welfare services, and professionals from the education and research sector, continues to provide opportunities to identify best anti-human trafficking practices.

The Trial Unit maintains policies to increase awareness about the dangers and risks of prostitution for first-time customers of prostitution through collaboration with the Prostitution Impact Panel (PIP) and education-based plea agreements. Survivors of the Street (SOS) offers also provide first-time prostitutes with the opportunity to earn reduced charges after participation in the educational program. However, the Trial Unit continues to take a firm stance on repeat perpetrators of these crimes that deeply impact our communities.

Municipal Code Violations

The Trial Unit prosecuted over 574 Municipal Code Violations in 2013, representing quality of life crimes ranging from Encroaching on Sidewalks to Consuming Alcohol in Prohibited Areas. Of particular note are the 57 violations of Municipal Code section 66.0402 - Unauthorized Collection of Recyclables. In the City of San Diego, taxes are used to pay for trash collection services. Revenue generated from recyclables is returned to the City and is used to offset the costs of trash collection. This act of illegally collecting recyclables comes with the associated problems of trespassing on private property, burglary, noise and litter. In 2013, the Trial Unit prosecuted approximately 57 violations of this ordinance and offered plea bargains including reductions to infractions or offers dismiss with no similar violations for set period of time. However, four defendants refused these offers, insisting that they had a right to steal from taxpayers. The same Trial Unit deputy secured guilty verdicts on all four cases.



People v. Soler Yusnier Gutierrez (M138058) – Code Enforcement Officers received numerous complaints from city residents that defendant was scavenging through their recyclable bins and filling his truck with cans and bottles. Despite receiving a warning and being issued several citations, defendant continued to loot city recycling bins. At trial, he testified that the all of the witnesses were lying and he never took anything from recycling bins. The jury convicted him on the violations

and he was sentenced to 90 days stayed custody and 10 days of public work service.

People v. John Joseph Howard (M165153) – After being warned and cited for illegal collection of recyclables, defendant was caught in the act by Code Enforcement Officers. Defendant became uncooperative and told them to write him a ticket because he'll just "tell the judge he didn't know it was illegal and he'll throw it out." Defendant told the officers that he wouldn't stop scavenging. He then opened up another recycling bin lid to another container and started to take more recyclables. Defendant was convicted at jury trial. The judge sentenced defendant to 3 years of probation and 60 days of custody stayed on the condition that he complete 30 hours of volunteer work service.

Electronic Discovery

Prior to 2011, the Trial Unit relied on the antiquated technologies of FAX machines and paper form-based processing of physical case files. In 2012, discovery staff began digitally scanning police reports and initial discovery packets. Still, a disclosure to a defense attorney often required making numerous copies of forms and pages of a case file while waiting for FAX machines to finish transmitting. In 2013, new procedures were implemented to reduce paper and effectuate immediate disclosure of evidence to attorneys and other prosecutorial agencies. All non-confidential evidence disclosures are now made exclusively by email to ensure a fast, accurate transmission of data. By scanning and storing police reports and other paper-based evidence, the discovery staff has freed attorneys and support staff from many of the burdens of a physical case file, allowing users in the Trial Unit to reference detailed case information from their computers. Through these procedures, the Trial Unit made an important step in updating the technology used in the day-to-day operations of the office.

Criminal Case Management System

The Trial Unit continues to rely on the criminal case management system (CMS) implemented in November 2009. New modules added in 2013 allow staff and attorneys to promptly generate letters and correspondence with victims, law enforcement agencies, and defense attorneys.

Victim contact information is now stored and updated electronically in CMS so that attorneys and staff can quickly contact victims and keep them apprised of the status of their cases. CMS continues to provide resources for gathering a variety of statistics, capturing the different trends of cases, and collaborating with the San Diego District Attorney's Office. We are better able to ascertain whether our policies and procedures, including offers and dispositions, are sound. The use of different modules in CMS allows our office to observe the practical effects of our policies and procedures and allows for efficient changes as needed.

Victim Restitution

A critical component of the work of the Trial Unit involves seeking restitution for victims of crime. Trial deputies handle restitution hearings as part of their duties, which involves the need to subpoena victims, civilian witnesses, and police officers to prove the amount of financial loss, and then obtain a court order to enforce the amount of financial loss. A criminal restitution order can require significant effort and skill to obtain, but it has the unique feature that it cannot be discharged in bankruptcy court, thereby providing the victim some measure of restorative justice. In 2013, Trial Unit deputies were able to successfully advocate for court orders in the amount of \$522,514.61 on behalf of crime victims. Our attorneys and staff continue their pursuit to 'make victims of crime whole' through reimbursement by restitution orders.

In addition to restitution orders after a hearing, we were also able to help support victims by employing the assistance of the Victim Compensation and Government Claims Board and victim advocates to guide the victims through the criminal justice system. Since the implementation of Marsy's Law, our trial deputies have worked diligently to be cognizant of victims' rights and to vigorously seek restitution as required by law.

Money Saved

In 2012, San Diego Superior Court implemented a policy that jury trial dates would be set on all misdemeanor cases arraigned in Department 1. This new court policy had the potential to cause thousands of law enforcement witnesses to be subpoenaed even though most of the cases would never actually go to trial. Through the assistance of Trial Unit support staff, new procedures were implemented to avoid this potential problem. Furthermore, through a policy of encouraging early dispositions on cases, the Trial Unit reduced by over 20% (representing over 300 cases) the number of Jury Trials that were set and not vacated at a prior hearing. These procedures avoid the unnecessary expense of law enforcement witnesses appearing on the first day of trial, only to be told that the case would be a change of plea or a continuance. They also eliminate the personal sacrifice of these officers to plan their lives around a trial, only to be told the night before that it would not be proceeding.

Through these new policies, and the continued collaborative resource-saving process of subpoenaing many officers for the second day of trial, more SDPD officers, detectives, and sergeants can remain in the field to protect and serve the citizens of San Diego. In addition, there is a significant cost savings by not having to pay overtime for those officers who often work a night shift and would have had to come straight to court after work.

Though it is not widely known, it is also the duty of Trial Unit staff to subpoena law enforcement witnesses and order discovery for all traffic infractions cases in the city of San Diego. This requires that approximately 100 subpoenas be generated by support staff, every day. This required three to four hours of staff members' time to complete this function. In 2013, the Trial Unit implemented an automated subpoena system that would subpoena all of the law enforcement officers for the traffic cases in just a few seconds. As a result, nearly a half-day of staff time has been freed up to work on more pressing needs of the office.

SUMMARY

The attorneys and staff members in the Trial Unit demonstrated their commitment as advocates for the People by vigorously prosecuting criminal cases in San Diego and achieving outstanding results in 2013. The Trial Unit will continue to make informed and proper decisions at each stage of the criminal process in order to achieve our primary goals of enhancing public safety and maintaining the citizens' quality of life through the thoughtful prosecution of misdemeanants.

Appellate Unit

The Appellate Unit provides legal support for the Criminal Division. The Unit consists of two deputy city attorneys supervised by Chief Deputy Steve Hansen and is supported by two and one-half clerical positions. The Unit handles pre-and post-trial motions, writs, and appeals for both the General Misdemeanor Unit and the Domestic Violence Unit. Most appeals are handled in the San Diego Superior Court Appellate Division, but the Unit also has cases in the Fourth District Court of Appeal and the California Supreme Court.

The Appellate Unit handles pre-trial motions on behalf of the Criminal Division. Typical motions include defense motions such as motions to suppress evidence based on the Fourth Amendment and motions to dismiss based upon the Fifth and Sixth Amendments.

The Appellate Unit also handles all post-trial motions on behalf of the Criminal Division. Typical motions include motions for new trial, motions to withdraw guilty pleas, motions to vacate judgment, and motions to seal records.

The Appellate Unit handles all appeal matters on behalf of the Criminal Division. Most appeals are filed by defendants after convictions, but the Appellate Unit also files appeals on behalf of the People to correct judicial errors. The Unit also responds to writs of habeas corpus, coram nobis, and mandate, and on behalf of the People initiates writs of mandate to correct judicial error.

In addition, the Appellate Unit serves as a resource for deputies who have questions on criminal law and procedure. Trial deputies, case issuance deputies, and arraignment court deputies seek legal advice on a daily basis.

HIGHLIGHTS of 2013

The Appellate Unit continued to process a very high number of pre-trial motions, handling nearly 900 motions with a success rate of more than 95%. Over the past year the Unit oversaw a major change in the way the General Trial Unit handles pre-trial motions. Traditionally, an Appellate Unit deputy city attorney would write the legal response to defense motions and would usually argue the motion in court. Beginning in 2013, in most cases where a General Trial Unit deputy has been assigned to the case, that deputy will both write and argue the response. This change improves the efficiency of the office, increases the trial deputy's familiarity with the case, and educates the trial deputy on the legal issues in that case, as well as future cases. The change has increased both the productivity and job satisfaction of the trial deputies.

With the transition to the system where trial deputies are responsible for their pre-trial motion responses, the Appellate Unit has devoted more time to appeals and writs. The Unit practiced primarily in the Appellate Division of the Superior Court but also handled cases in the Court of Appeal and the California Supreme Court. In 2014 budget cuts forced the Superior Court to reduce the number of trial departments, and as a byproduct the court was able to devote more resources to appellate matters. The court doubled the number of cases decided, with the Appellate Unit accounting for more than 180 of those, with a success rate of over 90%.

The true highlight of 2013 was a major victory in the war against drunk driving- the unanimous California Supreme Court opinion in *People v. Vangelder* upholding the use of breath testing in drunk driving cases. In *Vangelder* the defendant had tried to introduce evidence challenging the accuracy of the Intoxilyzer, the device used to measure the defendant's blood alcohol level in a drunk driving case. The trial court refused to allow the evidence, but the court of appeal

reversed the verdict, holding that the defense expert should have been allowed to testify that the Intoxilyzer may inherently be inaccurate. The City Attorney appealed to the California Supreme Court. In a unanimous decision written by Chief Justice Tani Cantil-Sakauye, the high court held that a defendant whose breath test exceeds the 0.08 blood alcohol limit may argue that the particular breathalyzer malfunctioned or was improperly calibrated or used, but cannot challenge the overall reliability of such tests.

The San Diego City Attorney Office typically prosecutes over 5000 drunk driving cases a year, the majority of which rely on a breath test. Letting the court of appeal ruling stand would have undermined one of the key tools in California's battle against drunk driving and would have adversely affected drunk driving prosecutions across the state. Kudos to Deputy City Attorney Jonathan Lapin, who wrote the briefs and argued the appeal in this important case.

[Domestic Violence and Sex Crimes Unit](#)

The San Diego City Attorney's Office recognizes the serious effects that domestic violence has on the families in our community. To that end, the office has the goal of meaningful intervention at the early stages of the cycle of family violence and dedicates its resources to ensuring that offenders are held accountable for their crimes.

In recognition of the incredible legal difficulty and complexity of these cases, our City Attorney maintains a specialized unit to handle their prosecution. These cases are handled vertically from the pre-issuing phase, all the way through trial and any future violations. The Domestic Violence and Sex Crimes Unit (DVSC Unit) reviews, issues, and tries all misdemeanor domestic violence, child abuse, elder abuse, and misdemeanor sexual assault crimes that occur in the City of San Diego, Poway and 4S Ranch. DVSC is also tasked with ensuring that individuals who have to register as sex offenders pursuant to Penal Code Section 290 continue to comply with their registration obligations. The DVSC Unit is comprised of 13 vertical prosecutors, three investigators, three victim witness advocates and nine support staff. In this vertical prosecution format, one attorney handles each case from beginning to end with the assistance of a specially designated team consisting of a Victim Services Coordinator and Investigator. The goal of this

system is to give each victim a sense of consistency throughout the process.



In 2013, the DVSC Unit was led by ACA Marlea Dell'Anno, Senior DCA Jonathan Siladi and Senior DCA Michael Ficken. DCA Emily Garson acts a full-time liaison to the Family Justice Center, where she works closely with the Detectives to ensure the quality of investigations.



2013 was a successful year for DVSC: 1,035 cases were issued from the 2,700 cases submitted to our office for review, an increase of 100 cases issued from the previous year. In addition to filing new cases, we redirected 289 cases to parole, probation, or the District Attorney's office. 948 cases reached dispositions this year, with an average disposition period of 29 days. The overall conviction rate was 93.9%.

DVSC deputies took 70 cases to trial in 2013, resulting in a 71.4% conviction rate. This number is exceptional considering the difficulty inherent in misdemeanor domestic violence prosecutions.

These successes are being emulated on a national level. This past October, the DVSC Unit hosted four members of the 4th Judicial District Attorney's Office from the state of Colorado for several days. These out-of-state deputies traveled to our office for the specific purpose of learning from DVSC's skilled prosecutors. In their District, the conviction rate for misdemeanor domestic violence crimes is less than 25%. Over the span of three days, our attorneys and staff showed them how we investigate and prosecute our cases, as well as the strategies and philosophies that have allowed us to be so successful.

The DVSC Unit has embraced a multi-faceted approach in our efforts to target all forms of family violence in our community. While the central focus is to hold batterer's accountable for their actions and to ensure victim safety, our unit is committed to combating violence in a variety of other ways. This includes specialized education and outreach to raise awareness in our community in collaboration with our community partners.

Of all of DVSC's agency and community collaborations, the High Risk Team is the most important. The High Risk Team arose out of the acknowledgement that certain victims are at significantly higher risk of being murdered by their partner. In order to better target the specific safety needs of these victims, the High Risk Team, led by ACA Marlea Dell'Anno, is built on a cooperative model. The team brings together advocates in the community, including our office, the San Diego County District Attorney's Office, the San Diego County Probation Department, the San Diego Police Department, and the San Diego Sheriff's Department. The goal is to quickly share information and coordinate our efforts so that we can prevent DV Homicides. All

of the attorneys in the DVSC Unit and the Victim Service Coordinators are trained to identify these often subtle risk factors and can refer a victim to the High Risk Team.

Specialized training highlights:

Senior Deputy City Attorney Michael Ficken worked with Deputy District Attorney Jessica Schuster to provide advanced training for the San Diego Police Department's Domestic Violence Unit's Detectives in the investigation of both misdemeanor and felony domestic violence crimes.



Senior Deputies Jonathan Siladi and Michael Ficken also taught special courses designed to increase awareness of investigation and prosecution of elder abuse cases.

During October's Domestic Violence Awareness Month, ACA Marlea Dell'Anno organized a rally for survivors called "Never To Be Forgotten." Sponsored by the San Diego Domestic Violence Council, this rally brought together family members of victims killed by their abusers. It was attended by nearly all of the DVSC Unit. Both District Attorney Bonnie Dumanis and Interim Mayor Todd Gloria spoke at the event, which was the kick-off event for several other regional rallies throughout the county.

Elder Abuse Prosecution

Elder Abuse crimes are classified as crimes against a victim who is 65 years of age or older, or is a "dependent adult" due to a physical or mental disability. The DVSC Unit prosecutes these cases vertically because elder abuse victims are particularly vulnerable and benefit greatly when a single, dedicated prosecutor is assigned to their case. Elder Abuse crimes carry increased sentences and more stringent probation conditions under the law. These probation conditions are monitored more effectively in a vertical prosecution unit. In addition to "typical" assault and battery crimes, DVSC aggressively prosecutes all other categories of crimes against elders and dependent adults, including but not limited to: restraining order violations, destruction of property (vandalism), criminal threats, and theft-related crimes. Any of these crimes can be equally intimidating and devastating to vulnerable victims, and are therefore prosecuted with utmost diligence and attention. Highlights of some of the City's elder abuse prosecutions can be found in the quarterly "Safe Seniors" newsletter published by the County of San Diego's District Attorney's Office and Aging and Independent Services.

Child Abuse Prosecution

The DVSC Unit handles all misdemeanor child abuse cases in the City of San Diego, Poway and 4S Ranch. These cases are handled vertically by prosecutors, investigators and advocates with the specialized knowledge and skills needed to build a rapport with child victims and support them throughout the court process. Child victims are referred to the “Kids in Court” program in order to familiarize them with the courtroom setting and to help alleviate the fear of testifying against an abuser. DVSC prosecutors attend bi-weekly meetings with child abuse detectives and other law enforcement representatives in order to ensure that all child abuse cases are handled effectively, efficiently and conscientiously within our community.

Sexual Assault Prosecution

The DVSC Unit is committed to the diligent prosecution of sex offenders in our community. Our prosecutors work hard to ensure that all offenders committing sex crimes against adults and children in our community are punished to the fullest extent of the law. While many of our cases require mandatory lifetime sex offender registration upon conviction, some sex crimes leave the decision of whether or not to impose lifetime sex offender registration to the discretion of the judge presiding over the case. When facts and circumstances warrant it, our prosecutors have been successful in arguing for and obtaining orders for discretionary lifetime sex offender registration from the court.

In order to combat sexual violence in our community, the best response is a coordinated response that includes every law enforcement and prosecution agency in our community. When these partnerships are strong, communication and information sharing between agencies is enhanced to the detriment of offenders. Our prosecutors work closely with the San Diego Police Department’s Sexual Assault and Sex Offender Registration units and other law enforcement agencies to aggressively prosecute sex offenders and ensure that they are in compliance with sex offender registration requirements.

With the hope that meaningful, early and substantive intervention will have a positive impact on both offenders and victims, our DVSC Unit is committed to protecting the most vulnerable in our society and making every effort to break the cycle of violence at its earliest stages. This commitment demands that we maintain the highest prosecutorial standards and maintain strong working relationships with our justice partners to achieve our common goals for the City of San Diego.

Notable Cases handled by the Domestic Violence and Sex Crime Unit in 2013:

People v. William Brown

In 2013, Deputy City Attorney Chris Rhoads continued his prosecution of the “City College Peeper,” William Brown. This prosecution began in 2012 with a peeping case at San

Diego City College. Due to the defendant's five prior peeping convictions, including two from San Diego City College, the City Attorney's Office was requesting Sex Offender registration as a term of any plea bargain or sentence for the defendant. Despite the City Attorney's arguments, the court chose to give defendant "one more chance" before he would become a sex registrant. The defendant was placed on probation and ordered to attend Sex Offender and alcohol counseling and told that if he offended again or did not follow the terms of his probation he would be ordered to register as a sex offender.

Once placed on probation, the defendant did not comply with his terms of probation and actually reoffended, resulting in his conviction for peeping in Chula Vista. Despite the defendant's lack of compliance, the court still did not order him to register as a sex offender. In May 2013, the defendant repeated his same course of conduct. The defendant waited outside a women's restroom and when she went into the restroom, the defendant followed her inside and watched her go to the bathroom. The victim screamed at the defendant and the defendant ran off. The victim called the police and drew a sketch of the defendant while waiting for the police to arrive. Based off the sketch, officers were able to identify defendant as the person who had violated the victim's privacy. The City Attorney's Office filed a new case and immediately had the defendant placed in custody. After a lengthy sentencing argument following the defendants' conviction, the court finally agreed the defendant posed a danger to the public and ordered the defendant to serve 365 days in custody and register as a sex offender.

People v. Ortiz

In this case, the Defendant strangled his 15-year-old girlfriend in the middle of a parking lot. The case was continued over the People's objection the first time the trial was set. In the time between the continuance and the next trial date, DCA Flavio Nominati sought and obtained the cooperation of two other independent witnesses. The Defendant then pled guilty to one count of domestic violence battery in violation of Penal Code section 243(e) and was sentenced to 270 days custody in jail.

People v. Contreras

This was a same-sex Domestic Violence case with a long history of abuse between the parties. During the first trial a mistrial was declared because the defendant feigned that he was incompetent for trial. Prior to the new trial, DCA Flavio Nominati obtained new pictures of the significant injuries suffered in a prior incident. In the middle of voir dire during the second trial, the defendant pled to sheet and was sentenced to 270 days custody and a 10-year Criminal Protective Order was imposed by the court for the victim's safety.

People v. Jones

This defendant was a prolific sex offender who was already required to register as a sex offender within the meaning of Penal Code section 290. In this case, the defendant sexually assaulted a young female in front of her building early in the morning. The defendant was convicted of sexual battery, bringing his tally of sex-related convictions to seven. Mr. Nominati then worked together with the victim and state parole representatives to transfer the defendant out of San Diego County.

People v. Wooder

This case illustrates the interdisciplinary approach taken by the High Risk team that results in increased victim safety. The defendant was on probation for battery against the victim, but was not complying with his probationary terms. The defendant violated the criminal protective order and threatened to kill the victim's dog and burn her house down. DCA Flavio Nominati developed a strong rapport with the victim, and communicated with her constantly during the pendency of the case. The court found the defendant to be in violation of probation after an evidentiary hearing, but rejected Mr. Nominati's request to keep him in custody while he awaited sentencing. Unsurprisingly, the defendant failed to appear at sentencing as ordered, so Mr. Nominati obtained a no-bail warrant for his arrest. DVSC utilized the resources made available by the existence of the High Risk Team in order to protect the victim and to locate the defendant. We worked with the victim and the YWCA in order to get the Victim into a shelter (she had been rendered homeless by Defendant's stalker behavior), and with SDPD to locate the defendant he was finally captured on his no-bail warrant, sentenced to 270 days custody, and was served a 10 year Criminal Protective Order. The victim is now doing very well, and is close to graduating from college.

People v. Gonzalez

The case of People v. Gonzalez typifies the cycle of violence dynamic that the DVSC Unit works to combat. The victim and the defendant had been married for 17 years, but the relationship was fraught with repeated incidents of domestic violence, both in Nevada and San Diego. The victim reported six of these incidents to police, but she recanted her statements and refused to cooperate with law enforcement when she perceived that the danger of the moment had passed. The DVSC Unit prosecuted the defendant for crimes against his wife in 2011, but due to the victim's recant, the jury acquitted the defendant.

Undeterred by the brief amount of time he spent in jail, the defendant persisted in his violence against his wife. This time, the defendant beat her with a shoe and a belt for the offense of speaking to another man without permission. The assault left the victim with significant bruising to her body. The defendant also threatened the victim if she reported him,

and violated an emergency protective order put in place to protect her. By the time the case went to trial, the victim was, again, uncooperative. Undeterred, DCA Miriam Milstein took the case to trial, overcame the defense that the bruises came from “rough sex”, and obtained a conviction. The defendant was sentenced to serve one year in jail.

People v. Guerrero

This defendant is a documented gang member on Post Release Community Supervision. He had multiple felony convictions for crimes of violence, and was living with his mother. One day, his mother asked him for some money for ice cream, and the defendant responded by throwing her to the ground, and punching her repeatedly while she lay there, defenseless. When she tried to call the police for help, the defendant disconnected the phone and threatened her. When police arrived, the defendant continued to intimidate his mother in the presence of officer. Due to significant courtroom congestion, the case was tried in Vista, where Deputy City Attorney Miriam Milstein obtained convictions. The defendant was sentenced to a year in local custody.

People v. Sadelddin

In addition to prosecuting domestic violence cases involving violence, the DVSC unit zealously prosecutes violations of restraining orders that are put in place to prevent stalking behaviors. In this case, the victim was terrified of her ex-boyfriend after a long period of abuse. The defendant already had a previous conviction for domestic violence against the victim, and was flagrantly violating her restraining order by waiting for her in his car outside of her house, and following her when she left. The victim reported the violations to police, but the defendant would flee the scene. He would then call the victim while she was with police and, on one occasion, taunt the officer. DCA Miriam Milstein prosecuted the case which went to trial. The defendant was convicted and sentenced to serve one year in jail.

Neighborhood Prosecution Unit

The Neighborhood Prosecution Unit (NPU) is composed of 5 attorneys and 2 staff members. NPU partners with the San Diego Police Department (SDPD) and community organizations to creatively prosecute crimes that impact quality of life. These include prostitution, graffiti, vandalism, gang offenses, disturbing the peace, alcohol and drug offenses, and transient offenses. NPU’s goals are to improve quality of life in targeted neighborhoods and hold offenders accountable to both the criminal justice system and the community.

Neighborhood Prosecutors were assigned to seven of the nine SDPD command divisions: Central, Eastern, Mid-City, Northern, Southeastern, Western, and Southern, spanning seven of the nine City Council districts².

Neighborhood Prosecutors serve as liaisons to the police divisions and to their assigned communities. They attend community meetings and events to relay information on quality-of-life crime problems to SDPD and the City Attorney's Office. Neighborhood Prosecutors screen cases involving chronic offenders in their areas and/or cases that need special attention or alternative sentencing options.

NPU participates in problem solving courts which use restorative justice principles to address quality-of-life crimes. These courts include: Beach Area Community Court, Behavioral Health Court, Homeless Court, Veterans Treatment Review Calendar, and the Downtown Community Court. NPU also offers alternative sentencing options such as the Prostitution Impact Panel (PIP) and the Serial Inebriate Program (SIP) and supports SDPD's Homeless Outreach Team (HOT).

Accomplishments

Cases: In addition to cases handled in the problem solving courts outlined below, NPU screened/processed 1,039 quality of life cases in 2013, 552 of which were issued as misdemeanors (including approximately 107 graffiti cases and 11 gang cases). 221 cases were set for trial and six were tried by juries.

Problem Solving Courts:

Beach Area Community Court: A pre-filing court launched in 2006, which requires low level offenders to participate in a community impact panel and to restore the harmed community through community service.

- BACC serves Pacific Beach, Mission Beach, and Mission Bay Park communities.
- BACC hosted 11 court sessions in 2013; BACC addressed 307 participants, and facilitated 1,228 hours of community service in the beach area.
- Instance Justice: Additionally, BACC hosted one special Instant Justice session in July 2013, allowing people who received eligible citations to immediately complete

² Communities in SDPD's Northeastern and Northwestern Divisions and in Council Districts 1 and 5 do not currently have assigned Neighborhood Prosecutors. Southern Division misdemeanors are primarily handled by the District Attorney's Office.

community service and resolve their citation. 20 participants completed 120 hours of community service.

Behavioral Health Court: A post-filing court launched in 2010 dedicated to address problems presented by mentally ill offenders. It combines the resources and expertise of the mental health and criminal justice communities to hold accountable, stabilize and reduce recidivism in the target population.

- Exodus screened 55 clients in 2013.
- Throughout the 12 Court sessions, 22 of the 55 screened candidates were accepted into program.
- BHC is at capacity with 37 candidates currently proceeding through the 18 month program.
- Currently, 3 defendants with City Attorney cases are participating in the program. Two of those Defendants are set to graduate in February 2014.

Homeless Court (HC) and Stand Down: NPU partners with various agencies to clear warrants and efficiently process cases for homeless individuals with low-level misdemeanor and infraction offenses. HC is held monthly at two local homeless shelters. NPU does the same for homeless veterans at the annual Stand Down event in July. HC addressed 602 defendants with a total of 1420 City Attorney cases.

- 387 homeless veterans pre-registered to participate in the Stand Down court proceedings in July, 2013, resulting in 924 cases addressed by NPU. Of those 387 veterans, 214 actually participated in the court proceedings, resulting in a total of 569 cases adjudicated in one weekend.
- 387 homeless veterans pre-registered to participate in the Stand Down court proceedings in July, 2013, resulting in 924 cases addressed by NPU. Of those 387 veterans, 214 actually participated in the court proceedings, resulting in a total of 569 cases adjudicated in one weekend.
- An additional 26 participants registered at a special over-flow Stand Down session held in August 2013, resulting in 156 additional cases being addressed.

Veterans Treatment Review Calendar (VTRC): VTRC is a post-filing pilot program launched in 2011 for former and current US military members convicted of criminal offenses that are eligible for probation under Penal Code section 1170.9. Program participants must show they suffer from a medical conditions related to military service.

Participants undergo extensive personalized treatment programs which teach and encourage substance-free and crime-free life coping skills. VTRC staff is comprised of mental health providers, substance abuse counselors, a program administrator, program mentors and criminal justice professionals.

VTRC staff closely monitors every participant's progress at organizational meetings held every other week and provides bimonthly status reports to the VTRC Judge at review hearings. In 2013, 31 defendants were admitted to VTRC, bringing the total of participants since its inception to 68. In 2013, eight VTRC participants had City Attorney cases; two of those graduated. At graduation, one participant remarked that VTRC "is not a hand out, nor is it a hand up. It is a high bar that you have to pull yourself up to."

Downtown Community Court (DCC): A post-filing and pre-filing diversion offer launched in 2002 which required offenders who committed specific misdemeanor offenses in Downtown to perform community service as a means of restorative justice.

- Post-filing: In 2013, 40 cases were eligible for DCC, and the court addressed 37 offenders who accepted the DCC, including 1,096 hours of community service.
- Pre-filing: This year 45 cases were eligible, 3 participants registered, and have completed 40 hours of community service.
- DCC is currently under review for expansion to increase the number and types of crimes which are eligible citywide.

Alternative Sentencing Options, Prevention Programs and New Strategies/Developments

Prostitution Impact Panel (PIP): PIP is an educational community-based victim impact panel designed to inform offenders who solicit or agree to engage in prostitution activity ("Johns") about the far-reaching impact of prostitution on a community. The panel consists of former prostitutes, former offenders, a health practitioner, SDPD vice officer and community members.

- In 2013, 7 PIP sessions were conducted, addressing 183 defendants.
- Family Health Centers of San Diego provided HIV testing and counseling to 118 defendants.

Serial Inebriate Program (SIP): SIP is an initiative created to attempt to stop the revolving door of serial inebriates entering the criminal justice system. When a chronic offender is charged with violating Penal Code 647(f), they are given the option of choosing treatment in lieu of custody. The SIP team provides transport from jail, extensive case management, job training, housing, and education. NPU offers encourage SIP defendants to accept treatment as an alternative to custody in jail.



3rd Annual Southeastern X-Fest: The Neighborhood Prosecution Unit worked with the Southeastern Division of the San Diego Police Department and other members of the community to

promote public safety through healthy and legal activity. This event brought professional athletes, car enthusiasts, community based organizations, local businesses, and law enforcement together to encourage safe and fun activities, including music, skate boarding, and skate board artistry as legal alternatives to graffiti.



San Diego Law Enforcement and Private Security (SD LEAPS) Workshop: On November 14, 2013, Chief Deputy City Attorney Mike Giorgino led a panel discussion onboard USS Midway Museum on topic of "Sharing Solutions to Address Chronic & Nuisance Offenders," in support of SDPD Serial Inebriate (SIP) and

Homeless Outreach Team (HOT) officers.

[The Community Justice Division](#) prosecutes cases that the community has identified as important to quality of life. Prosecutors work with the community, police and other law enforcement agencies to establish and maintain security, fair business dealing and to promote justice. The Community Justice Division is divided into two units: Code Enforcement Unit and Consumer & Environmental Protection Unit.

[Code Enforcement Unit](#)

In 2013 the Code Enforcement Unit (CEU) continued to aggressively prosecute a variety of code enforcement and public nuisance cases. Violations included unpermitted uses negatively affecting neighborhoods, substandard housing, illegal construction, fire and safety violations, destruction of environmental and historical resources, and numerous zoning violations. Public nuisance cases included problem properties with serious drug or prostitution activity. Code deputies worked closely with community members, police officers, and code inspectors to achieve a long term solution to properties attracting nuisance activity and jeopardizing the safety of neighborhoods. CEU investigators assisted code enforcement inspectors with investigations, provided trainings, and obtained inspection warrants as necessary. Some of the cases resolved by CEU in 2013 are highlighted below:

REDLIGHT ABATEMENT CASES

CEU regularly utilizes California's "Red Light Abatement Act" against property owners who allow prostitution activity at their place of business. This state statute, embodied in Penal Code sections 11225 and 11227 authorizes the City Attorney to file a nuisance action to abate the nuisance activity, seek penalties, and ultimately close down the building if the nuisance continues. In 2013 CEU worked closely with the Vice Unit of the San Diego Police Department (SDPD) and filed Red Light Abatement actions in the following cases:

People v. Chhatrala Hospitality Group, LLC - In less than one year, SDPD vice officers made approximately 18 prostitution related arrests, including one case involving the human trafficking of a minor at the Howard Johnson Hotel at 1631 Hotel Circle South in Mission Valley. The lack of security at the hotel, combined with inadequate lighting, limited video surveillance, and minimal guest registration policies, facilitated prostitution activity. In addition, the hotel

allowed guests to rent a room by paying cash without requiring an additional cash deposit. This practice facilitated the quick rental of rooms for illegal activity. CEU filed for injunctive relief and the resulting Court order required the owner to hire a 24-hour security guard; install additional security cameras; and post signs to deter criminal activity. The owner is now under a permanent injunction which requires him to photocopy all guest and visitor identification cards; register all guest and visitor vehicles; install additional lighting around the hotel; and continue to maintain a "Do Not Rent" list of known problematic individuals. Additionally, the owner must educate and train his employees regarding hotel rules and regulations pertaining to all guests and visitors and require a cash deposit for all rooms rented with cash.

The owner also agreed to pay \$21,688 to reimburse the City for investigative costs incurred in responding to the crime on the premises. In addition, \$10,000 in civil penalties is stayed pending full compliance with the terms of the settlement. The owner is now permanently enjoined from maintaining, allowing, permitting directly or indirectly, the occurrence, continuance, or reoccurrence of acts of lewdness or prostitution, solicitation, or human trafficking upon the premises of the property; maintaining any violations of the San Diego Municipal Code section related to hotels and motels, and maintaining any violations of the Red Light Abatement Act at any other property or premises in the City of San Diego.

People v., BRE/LQ Properties - During 2012 and 2013, the Police Department conducted several undercover operations and inspections at La Quinta Hotel at 10185 Paseo Montrail, in Rancho Penasquitos. During their investigation, it was discovered that numerous females advertised themselves for sex on an internet website. Since March 2012, detectives made approximately 16 prostitution related arrests. In December 2012 detectives pulled four prostitutes out of the hotel within a three hour period. In January 2013, detectives arrested a pimp at the hotel for human trafficking, pimping, pandering, and child endangerment. Evidence from the arrest revealed that the prostitute working for him at the hotel had been also advertising and working out of several states. A 6 year old child was also present at the hotel who indicated that his mother "went on calls," got paid for the calls, and gave the money to his father who was the male pimp arrested. In March 2013, there were three prostitutes working at the hotel in two different rooms in the same evening.

Determined to stop the criminal activity at the property, CEU worked closely with Vice Officers to file a Red Light Abatement action. Among the agreed settlement terms, the hotel was required to hire a 24-hour security guard for 90 days; install additional security cameras; and post signs to deter criminal activity. The hotel was also required to photocopy all guest and visitor identification cards for a period of time; require a cash deposit for all rooms rented with cash; register all guest and visitor vehicles; install additional lighting around the hotel; and

continue to maintain a “Do not Rent” list of known individuals arrested for prostitution related-activity on or off the property. Additionally, all hotel visitors must register at the desk between the hours of 8:00 p.m. and 8:00 a.m. and present valid government-issued picture identification. Similar to the above action, the hotel is now permanently enjoined from allowing prostitution or public nuisance activity. The hotel owner was required to pay \$15,000 in investigative costs to the City of San Diego and \$5,000 in civil penalties. An additional \$20,000 in civil penalties is stayed, pending successful compliance with the terms of the settlement.

PUBLIC NUISANCE CASES

People v. Johnson – occasionally a problem property will continue to negatively impact the surrounding neighborhood despite court action. In the 1990’s CEU obtained a civil court order allowing the City to abate the nuisance conditions at the following properties in Southeastern San Diego: 3485 Webster Avenue; 13 and 21 South Francis; 12 South 35th Street; and 607 North 64th Street, all owned by one individual. CEU requested a modification to the Final Judgment back in 2010 and the City has abated the properties several times. Unfortunately, the owner again allowed the properties to fall in disrepair and the neighbors renewed complaints of continuing drug dealing and nuisance activity at the properties. Therefore CEU once again filed papers, which included numerous citizen declarations, to further modify the existing court order. This time the City requested authorization to demolish all of the remaining vacant structures on the properties, one of which had recently caught on fire and remove all trash, debris, vegetation and vehicles. In December 2013, a hearing was held and the Court granted the City’s request. The modified order also prohibits the owner from allowing narcotic users/sellers, parolees, or documented gang members from frequenting the property. The future abatement should result in increased safety to the surrounding neighborhood and considerably reduced calls for service to the Police Department.

6840 El Cajon Boulevard – SDPD Community Relations Officers had received numerous complaints from citizens regarding nuisance activity stemming from the Le Petite Rouge Motel which operates at this address. Residents of the hotel often exhibited bizarre behavior and harassed patrons and businesses of the local strip mall. The Police had received numerous calls for service and public disturbance calls and often it was the hotel management that called for police assistance. CEU conducted an investigation and discovered that the motel was leasing rooms on a regular basis to mentally ill parolees who had no supervision and who had criminal histories which included serious and violent crimes. The parolees were referrals from a nearby

non-profit agency. Not only did this practice result in nuisance activity to the surrounding activity, but was not a permitted use under the City's Land Development Code. A specific concern was the proximity of a nearby middle school. CEU and Police met with the hotel manager who ultimately chose to voluntarily cease housing parolees. The manager also agreed to:

- Conduct a walk-through of the hotel with SDPD and review crime prevention techniques and strategies which have proven effective at other motels;
- Email to the SDPD on a nightly basis an up to date guest registry for the hotel;
- Install an additional camera at the hotel which faces the adjacent strip mall;
- Continue to maintain a "Do Not Rent" list regarding problem guests;
- Discontinue accepting cash deposits for room rentals;
- Attend community meetings with the SDPD and local business community.

DRUG ABATEMENT RESPONSE TEAM (DART)

CEU is an important member of the City's Drug Abatement Response Team (DART). Other team members are San Diego Police DART detectives, narcotics teams, and code inspectors. The team focuses on problem properties with ongoing narcotic activity; develops an appropriate long term strategy to abate the nuisance activity; and ensures that all code violations are corrected. When a property owner fails to address narcotic activity at the property, CEU's DART deputy regularly files a civil action under California Health and Safety Code Sections 11570-11587, a specialized public nuisance statute designed to make property owners and managers civilly liable for illegal drug activity conducted on their premises. Problem properties resolved by the Drug Abatement Response Team in 2013 include:

People v. McCrobie - this property located at 3767 Wawona Drive, was referred by SDPD Western Division officers and had a long history of drug and nuisance activity. From 2011 to 2013, there were 35 calls for service to the police and 10 arrests requiring over 440 hours of police out-of-service time. The DART team met with the property owner who was aware of the criminal activity and understood he could be held liable for the illegal activity at his property. A civil settlement was reached which required the owner to formally evict all occupants including his son who had allowed narcotic sales and use at the property; and to immediately report the presence of any of the 40 individuals on a "Stay Away List" of persons known to engage in

narcotic activity at the property. The injunction also requires the owner to use best management practices when leasing the property and to properly screen prospective renters and obligate them to keep the property crime free. Today the property is completely rehabilitated and leased to responsible tenants.

5321 Lehrer Drive - this case was referred by SDPD Northern Division officers as they frequently arrested occupants for drug violations. This house was also known in the community as a drug flophouse. The owner was deceased and the property, which had extensive code violations, was never probated. The garage and shed were being used as habitable space and there was significant unpermitted storage throughout the property. DART referred the case to the County Administrator's office, prompting the heirs of the estate to complete the probate process. DART then provided the probate attorney evidence of the crime and nuisance activity and the Court ordered a sale of the property. The property was ultimately purchased by a third party and rehabilitated.

5278 Santa Margarita - Southeastern SDPD Officer executed a search warrant and recovered cocaine, stolen guns, and a large amount of ammunition at this property. Officers arrested the tenants for possession of cocaine for sale and possession of stolen guns. The property owner was not responsive as the property was being foreclosed by the bank. DART then contacted the bank to inform it of the criminal activity and possible liability. The bank expedited the foreclosure of the property, selling it to a third party who rehabilitated the entire premises.

3325 Cherokee – this case in the Mid City area of San Diego was referred by SDPD Narcotics officers after a search warrant was executed for drug sales. Officers recovered a large amount of methamphetamine, and arrested the tenant and 8 other individuals, for drug sales. Stolen property was also recovered including several trailers and motorcycles. The property was also full of unpermitted storage and vehicles. The property owner lived out of state and his family managed the property. DART noticed the owner of the criminal activity and code violations and his liability under the Drug Abatement Act. The owner filed a formal court eviction against the tenants and corrected the code violations.

MARIJUANA DISPENSARY LITIGATION

Since 2011, CEU has caused the closure of over 100 marijuana dispensaries by enforcing the City's zoning laws. In 2013, CEU continued to spend resources litigating pending civil cases in court against dispensaries and property owners who leased to dispensaries. Settlements were reached in six cases and litigation continues with owners who have not wanted to reach a settlement with the City. Enforcement of marijuana dispensaries temporarily came to a halt during the previous mayoral administration, however enforcement resumed in September and CEU again began receiving cases. Dispensaries shut down in 2013 by court action include:

City v. Jerry & Richie Vue – CEU filed a civil complaint in October 2013 against the dispensary “Medicated” operating at 841 Turquoise Street in Pacific Beach. A settlement was reached whereby the dispensary immediately shut down within 24 hours and paid \$1,118 in investigative costs and \$3,000 in civil penalties. \$17,000 in civil penalties was suspended but can be imposed should the operators violate the terms of the injunction which includes not operating a dispensary anywhere in the City.

City v. Sandra Vue – Also in October, CEU reached a similar civil settlement with another dispensary conducting business at 4780 Mission Bay Drive in Pacific Beach. “Mari-Medic Farmacy” also agreed to shut down in 24 hours and paid \$1,000 in investigative costs and 3,000 in civil penalties with \$17,000 suspended.

City v. Gonzalez, et.al., - CEU initially filed a complaint in October 2013 against the dispensary, “VIP Buds” operating at 2589 Imperial Avenue and the property owner. The Police, code inspectors, and the City Attorney's Office had received numerous complaints about the constant traffic, loitering, and nuisance activity caused by dispensary customers. The dispensary initially shut down but renewed operations, causing complaints again from nearby businesses, residents, and churches. On November 8, 2013, there was an attempted burglary at “VIP Buds” and as a result of the investigation, the Drug Enforcement Agency served a search warrant and confiscated a large amount of marijuana and marijuana edibles. The property owner then entered into a settlement with CEU, agreeing to pay \$10,000 in civil penalties to the City and reimburse the City \$2,651 in investigative costs. Failure to comply with the terms of the stipulated agreement may result in the imposition of an additional \$15,000 in suspended penalties. The owner is permanently enjoined from operating, maintaining, or allowing a marijuana dispensary anywhere in the City of San Diego and must correct all code violations at the property.

City v. Malcom Properties, et. al., - in September 2013, CEU filed a civil complaint to shut down the marijuana dispensary, “Central Wellness Collective” that was operating illegally at 2621 El Cajon Boulevard. Vehicle and pedestrian traffic caused by constant customers visiting the dispensary became a considerable problem in this congested commercial area in Mid City. An altercation and battery occurred in a nearby parking lot. In December, CEU was successful in obtaining a default judgment from the Superior Court, ordering the immediate closure of the dispensary. The Court also ordered that the property owners pay \$77,500 in civil penalties and \$900 investigative costs and ordered the dispensary operator to pay \$62,500 in civil penalties and \$1,241 in investigative costs.

GENERAL ZONING AND BUILDING VIOLATIONS

People v. Henderson – the City often receives complaints from home owners in the College Area that other property owners are renting their single family homes to college students and packing as many tenants as possible into the home, resulting in “mini-dorms”. This practice can have a detrimental effect on the neighborhood due to excessive trash, insufficient parking, noise, and ultimately can result in changing the residential character of the neighborhood. The practice also allows a property owner to collect up to four times the market value in monthly rent, while disregarding zoning and building regulations. Often tenants are living in garage conversions, illegal additions or in rooms made unsafe by building and fire violations. In early 2013, a particularly egregious case was referred to CEU involving a real estate broker who managed forty homes in the College Area. Residences under his control were found to have multiple code violations and unsafe living conditions such as insufficient living space, unpermitted construction, illegally reduced parking, and inadequate paths of egress. A criminal complaint was filed by CEU and in April 2013, Keith Henderson pleaded guilty to three misdemeanor violations of the Municipal Code for allowing six or more people to live in a home without the required “Residential High Occupancy” permit; modifying a residence without a building permit; and converting a garage into living space. Mr. Henderson’s sentence included a \$1,500 fine with an additional \$1,500 stayed pending satisfactory compliance with probation; payment of \$4,912 in investigative costs; and 30 days of public work service. Mr. Henderson’s conditions of probation also required him to complete an ethics course on property management, sever ties with the property owner of the home, bring all properties under his control in the City of San Diego into compliance with the San Diego Municipal Code, and no longer violate municipal code regulations on any property for which he is responsible.

People v. Sullivan - The property owner in the above case also pleaded guilty to maintaining zoning violations at her property and agreed to no longer associate with the co-defendant/real estate broker. She was required to correct all code violations at her property and paid investigative costs in the amount of \$3,154.

People v. Simons, et al. - this case was referred to CEU as code inspectors had been unsuccessful in requiring the owner of a swap meet in San Ysidro to either comply with zoning, building, and fire regulations or shut down. Despite an Administrative Hearing Order directing the owner to comply with local regulations, the swap meet continued business - maintaining a large outdoor retail facility for approximately 117 vendors. CEU filed a criminal complaint, alleging failure to comply with the Administrative Enforcement Order; maintaining a use without proper permits; and maintaining miscellaneous building, plumbing, and electrical violations. The Limited Partnership pleaded guilty on November 6, 2013, and agreed to immediately cease the operation of the swap meet and clear the property of tarps, tents, port-o-potties, trash, debris, weeds, and storage related to the swap meet. \$7,000 in fines was suspended stayed pending completion with all of the terms and conditions of probation. (Considerable administrative penalties were separately imposed by the City for failure to comply with the administrative order)

People v. Campbell – Officers from the SDPD Mid City Division referred this problem property which had numerous calls for service due to poor property management. Tenants and their acquaintances would congregate in the alley and on the property and there had been a gang shooting. Some tenants were living in the garage. One unit was fire damaged and had never been corrected. Due to the owner's unwillingness to timely correct the code violations and improve the property, CEU filed a criminal complaint. The owner pleaded guilty to four misdemeanor violations of the Municipal Code and was required under her terms and conditions of the probation to remove all outdoor storage, trash, debris, abandoned vehicles and properly secure any vacant units. She was also required to timely submit plans and obtain proper permits to correct all building violations. In addition she paid \$3,144 in investigative costs and \$1,000 in fines with \$3,000 stayed pending successful compliance with her probationary terms.

In re Morrow – CEU represented the City's Code Enforcement Services Division in an administrative hearing mandated by the Superior Court following a Writ of Mandate filed by a property owner. The owner had previously been ordered to correct zoning and building

violations at his properties on 46th Street. The result was favorable to the City, reaffirming that the owner must correct all code violations. Civil penalties of \$6,750 were imposed, with \$15,750 stayed pending compliance with the original order.

VIOLATIONS OF THE CITY'S ENVIRONMENTAL AND HISTORICAL RESOURCE REGULATIONS

City v. Grand Del Mar Resort L.P. - In January 2013, CEU filed a civil complaint against the Grand Del Mar Resort which was operating a golf course, resort, equestrian center, horse trails, and helipad without first obtaining all of the required discretionary land use permits. A civil settlement was reached, requiring the defendant to cease all development; submit a Temporary Erosion Control Plan; use best management practices to control erosion caused by its illegal grading; and obtain all required grading and ministerial permits including restoration of native habitat and revegetation according to City guidelines. The defendant agreed to pay \$12,456 in investigative costs and \$75,000 in civil penalties. An additional \$600,000 in penalties was stayed pending the successful and timely compliance with the terms of the settlement. The settlement also required that the defendant complete 150 hours of community volunteer work.

City v. Shushan, et. al., - this case was referred by code inspectors who observed that the detached garage to a potentially historic single family dwelling at 1604 Cypress Avenue had been demolished prior to the owner obtaining final historical review and permits. The demolition also went beyond the scope of the plans under review. CEU filed a civil action resulting in a settlement that required the owner to submit proper plans for all interior and exterior modifications to return the structure to its previous condition. The owner was also required to pay \$763 in investigative costs and \$10,000 in civil penalties to the City, with an additional \$10,000 in penalties stayed pending compliance.

In re Parker – CEU represented the City's Code Enforcement Services Division at an administrative civil penalties hearing to resolve building violations at 4738 Panorama Drive. The City had previously issued a Notice and Order to the developer for partially demolishing a single family residence which was determined to be of historical value. CEU was successful in reaching an agreement with the developer, requiring him to immediately submit detailed and complete plans for all interior and exterior modifications and timely complete the work, or restore the property to its original configuration with required permits. In addition, the developer agreed

to pay \$5,000 in penalties to be deposited in the City's Historical Resource Fund, with an additional \$5,000 in penalties suspended on the condition he perform all the required work.

In re Madariaga – Code inspectors received a complaint regarding illegal grading at a private property at 1970 Fairmount Avenue. An inspection by the City Biologist revealed that undocumented fill material had been dumped in Environmentally Sensitive Lands which consisted of Steep Hillsides and Sensitive Biological Resources. The property owner had installed erosion control measures at the bottom of the slope but the measures had failed and had not been maintained. An administrative action was pursued by the City but the property owner never complied and instead raised procedural objections to the hearing. The case was referred to CEU who was able to renegotiate a satisfactory settlement, establishing time frames for the owner to submit plans for a grading permit to restore the property and correct all building violations. The owner was also required to pay \$2,967 in investigative costs to the City. \$25,000 in civil penalties was suspended pending successful compliance with the terms of the settlement.

City v. Kushkaki - CEU filed a civil complaint against an individual for the destruction of three Canary Island Pine trees belonging to the City and located in the public right-of-way. The individual cut the trees, as they allegedly were dropping pine needles into his yard. A settlement was reached whereby the Defendant agreed to pay costs to the City of San Diego in the amount of \$6,689 to remove the damaged trees, purchase and plant new trees, remove debris, and replace irrigation. Defendant also paid investigative costs to the Park and Recreation Department in the amount of \$595.

TRAININGS AND PRESENTATIONS

CEU regularly attends community meetings and provides training on specific topics to law enforcement, code inspectors, volunteers, and community groups. Some presentations provided by CEU in 2013 are:

- Training to code inspectors on Verbal Judo; Enforcement Remedies; Case Preparation and Courtroom Testimony;
- Training to code inspectors on Regulating and Enforcing Against Independent Living Facilities;

- Training on How to Handle Hoarding Cases to Animal Control Officers;
- Presentation by DART on the use of the Drug Abatement Act and nuisance laws to combat drugs and crime at problem properties. The training was for property owners and property managers as part of the Crime Free Multi Housing Training series;
- Trainings for SDPD narcotics detectives and code enforcement inspectors to educate them about the DART team and appropriate cases for referral;
- Training for code inspectors on How to Handle a Substandard Housing case under the California Health and Safety Code;
- Training on how to obtain Administrative Inspection Warrants and when they are justified;
- Training for the San Diego County Housing and Community Development Office and public housing inspectors on substandard housing and hoarding cases;
- Presentation to County Animal Control Supervisors and officers on code enforcement, substandard housing, and how to effectively handle hoarding cases.

CEU is also a founding member and Steering Committee member of the “San Diego Hoarding Collaborative” (SDHC). SDHC is a collaborative team effort consisting of diverse agencies seeking to identify and understand the issues, difficulties, and causes of hoarding behavior; educate the public about these behaviors; and develop an effective case treatment approach.

MONIES COLLECTED

The prosecution of code violations and nuisance activity in San Diego’s neighborhoods not only results in the reduction of crime in neighborhoods but greatly improves the quality of life for San Diego residents. In addition to improving the safety and appearance of properties, prosecutorial actions result in the imposition of fines and penalties; the recovery of investigative costs; and other appropriate sentencing terms. In 2013, through aggressive prosecution, CEU obtained court orders requiring code violators to pay the following monies:

- **\$247,500 in judicial civil penalties**
- **\$4,200 in criminal fines**
- **\$101,322 in investigative costs**
- **\$69,053 in administrative civil penalties**

Consumer & Environmental Protection Unit



Overview

The Consumer & Environmental Protection Unit (CEPU) successfully concluded 42 cases (37 criminal and 5 civil), all involving unlawful business practices affecting consumers or the environment. The civil cases resulted in defendants paying penalties and costs to prosecuting and investigative agencies totaling over \$12 million. The criminal cases resulted in restitution orders for \$82,754 and fines of \$32,816. In the criminal cases, offenders were ordered to serve time in jail or to do work service in the community. CEPU accomplished the following in 2013:

- Investigated and prosecuted cases for false advertising, false packaging, sale of counterfeit products and scanner overcharges;
- Investigated and prosecuted complaints of mortgage loan modification and foreclosure consultant fraud;
- Investigated and prosecuted businesses violating laws that deplete or endanger marine resources;
- Worked with prosecutors throughout California to resolve large civil cases against retailers for unlawful disposal of household hazardous wastes;
- Secured convictions in theft cases, including online scams;

- Prosecuted individuals for a variety of unlicensed professional activities;
- Continued enforcement of laws regulating tow companies; and
- Provided information to the public through media outlets, a consumer phone bank, speeches, and the publication of monthly newsletters on various consumer and environmental protection topics.

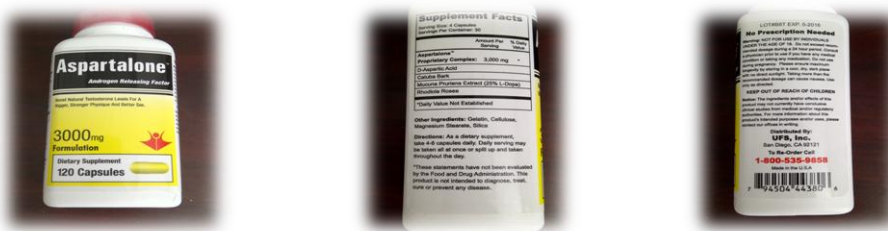
<http://www.sandiego.gov/cityattorney/media/newsletters.shtml#cepu>

- [December](#) "Medical Doctors, Doctors of Osteopathy and Naturopathic Doctors"
- [November](#) "Health Care Assistant Classification - General Differences Between AN, RN, NP, PA, LVN, CNA"
- [October](#) "Grey Charges: All Trick, No Treat"
- [September](#) "Using Online Employment Resources Safely & Securely, pt. 2"
- [August](#) "Using Online Employment Resources Safely & Securely, pt. 1"
- [July](#) "Caffeine"
- [June](#) "Professional Hair, Skin and Nail Services"
- [May](#) "Asbestos"
- [April](#) "Taxpayer Identity Theft"
- [March](#) "Weights & Measures Violations"
- [February](#) "False Advertising"
- [January](#) "New Laws 2013"

Health and Safety

Health and safety issues are always the number one priority of CEPU. In *People v. Ultimate Fitness Nutrition*, a criminal case, a local company advertised nutritional supplements to body builders which contained undisclosed caffeine and anabolic steroids. As a result of the conviction the company recalled the supplements, paid restitution and a \$5,500 fine.

<http://www.sandiego.gov/cityattorney/pdf/news/2013/nr131114.pdf>



False Advertising

The CEPU resolved cases involving various forms of false or misleading advertising by businesses and individuals selling goods or services. Two cases involved major retailers who advertised one price on store shelves or in printed ads and charged a higher price at the time of checkout. These cases are referred to as “scanner overcharge” cases and were investigated by the County of San Diego Department of Agriculture, Weights and Measures. The investigations involved violations statewide which incorporated other counties’ weights and measures reports of violations.

People v. Fresh and Easy Neighborhood Market, Inc. was a civil case brought by the San Diego City Attorney, San Diego District Attorney and Riverside County District Attorney to redress scanner overcharges and selling a commodity in less quantity than represented. Reports from 12 counties in California revealed customers were charged more at the time of checkout than the currently posted or advertised price. The company paid penalties, restitution and costs totaling \$833,000 and are prohibited from committing future violations.

<http://www.sandiego.gov/cityattorney/pdf/news/2013/nr130122.pdf>

People v. Best Buy was a civil case brought by the San Diego City Attorney, San Diego District Attorney and Los Angeles County District Attorney to redress scanner overcharges. Reports from 15 counties in California revealed customers were charged more at the time of checkout than the currently posted or advertised price. The company paid penalties, restitution and costs totaling \$875,000 and are prohibited from committing future violations. Best Buy will also give any customer overcharged a \$3.00 reduction on the lowest posted or advertised price or the customer shall receive the item for free.

People v. Empire Today, LLC, was a civil case prosecuted jointly by the City Attorney and the Riverside County District Attorney for misleading advertising, insufficient disclosures, and violations of the California contractor’s law limiting the full upfront payment of services to the lesser of \$1,000 or 10% of the contract price of the flooring installation. The insufficient disclosures included bait and switch television advertisements where the disclosures which

were made not only moved too quickly to be read, but were also in print far too small to read:



Empire paid \$330,720 in civil penalties and costs and is bound by a permanent injunction prohibiting similar violations.

The CEPU also settled criminal cases involving unlawful advertising.

People v. LOUHOT, Inc., doing business as Kirby Vacuum and Best Promotions, was a criminal case involving the unlawful use of promotional gifts without full disclosures as required by California law.



As a result of our prosecution, the company changed its advertising practices and paid fines and restitution.

People v. Stelios Proios was a case involving a Riverside County farmer who was selling produce at local certified farmers' markets that was not of his own production. The farmer told undercover agricultural inspectors that his produce was pesticide free; however, lab tests revealed the broccoli and Brussels sprouts had been treated with undisclosed pesticides and a fungicide. Defendant has been banned from selling produce in farmers' markets in San Diego County and has been placed on three years of probation.

Loan Modification Fraud

The home foreclosure crisis in California has led to a wave of unscrupulous loan modification businesses cropping up to prey on distressed homeowners. These businesses promise homeowners they can "save their home" by negotiating better loan terms with the lender. These businesses often require illegal up-front fees of several thousand dollars and do little or no work on behalf of the homeowner. CEPU has targeted businesses taking illegal up-front fees in an attempt to shut them down quickly, before too many homeowners become victims of the fraud. This year, CEPU prosecuted several loan modification fraud cases. In *People v. Corinne Francisco, doing business as Nationwide Processing Services*, the defendant pleaded guilty to theft and taking illegal up-front fees from homeowners. She was sentenced to one year in custody and ordered to pay nearly fifty- thousand dollars in restitution to multiple victims. In *People v. Leslie Elidan, doing business as U.S. Mortgage Solutions*, the defendant pleaded guilty to theft and taking illegal up-front fees. Elidan was ordered to pay fines, full victim restitution, and placed on three years of probation. Several other cases have been filed against similar individuals and businesses. Because of CEPU's pro-active prosecution of loan modification fraud cases, the California Department of Justice awarded CEPU a grant which will enable us to expand our enforcement.

Violations of Child Labor Laws

The CEPU responded to complaints about local middle school children being solicited and hired for no wages to go door-to-door after school and at night selling candy in violation of many

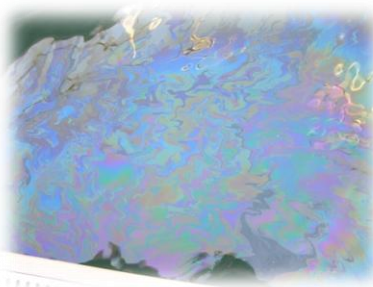
child labor laws. The children, who were being bused to various areas of town, received only a commission on the candy they sold. The CEPU successfully prosecuted Andrew Quintanilla, doing business as Teens in Progress, for unlawful employment of minors under 16 years old and paying employees less than minimum wage. As part of the sentence, he was ordered to pay restitution to the children in the form of back wages for the time they worked. Mr. Quintanilla was also sentenced to three years probation, ordered to perform public work service, fined, and ordered not to have any involvement with a business that employs minors.

Protecting Marine Resources

CEPU's environmental prosecutor obtained convictions in cases involving individuals who violated laws regulating our marine resources. *People v. Bruce England* was a criminal case against a man who took 30 undersized lobsters from the ocean. England was convicted and sentenced to pay \$2,240 in fines and to serve 5 days in jail. He faces an additional \$17,000 fine if he violates the terms of his probation.



CEPU also addressed activities by businesses which pollute our ocean and bays. *People v. Pacific Maritime Freight, Inc.* was a criminal case against a company that discharged diesel fuel into the San Diego Bay. The company was placed on probation and ordered to pay a fine of \$3,800.



Oil Slick in San Diego Bay

Retailers Disposing of Hazardous Materials

CEPU joined prosecutors in nearly every California county in law enforcement actions against retailers which addressed illegal disposal of hazardous wastes. *People v. Rite Aid Corporation* was a civil case in which the

company paid penalties, costs, and other monetary relief totaling \$12,324,000, and was ordered to implement a program to prevent future illegal disposal of hazardous waste.

Theft Cases

The Internet continues to tempt thieves. *People v. Jazmine Ford* and *People v. Christopher Crouch*, were cases involving Craislist.com room rental scams with multiple victims. Both defendants were convicted, ordered to pay restitution and fines and Ford, who was a repeat offender, was sent to prison. *People v. Trevor Long* was a criminal case against a man who advertised nonexistent seats to a local concert on Craigslist and sold two tickets for \$200. He was convicted and sentenced to serve 88 days in custody and to pay restitution to the victim.

Unlicensed Activities

CEPU works with agencies which license and regulate various professions to ensure that individuals offering to do work requiring a license are properly licensed. CEPU obtained convictions in cases involving many different professions, including cosmetology, contracting, auto sales, and party buses.

Tax Evasion

CEPU prosecuted numerous cases this year involving businesses and individual selling untaxed cigarettes in large quantities. These cases are investigated and referred for prosecution by law enforcement or the California Board of Equalization.

Tow Companies

CEPU continued its efforts to address violations of law by tow operators towing vehicles from public parking lots in violation of state laws.



Public Education

One of the goals of CEPU is to reduce incidences of fraud by educating the public to recognize fraud before becoming a victim. To meet this goal, CEPU provides information through media outlets, speeches, and newsletters. In 2013, CEPU staff appeared at local consumer awareness events such as Military Saves and on television news programs discussing specific consumer issues. In March, as part of National Consumer Protection Week, CEPU joined other consumer protection agencies and groups to staff a phone bank at 10 News during the evening news hour, answering questions from members of the public about consumer issues.

